

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2408874
Decision Date:	09/13/2024	Hearing Date:	07/12/2024
Hearing Officer:	Emily Sabo	Record Open to:	07/26/2024

Appearances for Appellant:



Appearance for MassHealth:

Lisa Russell, RN, Optum

Interpreter:



*The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
Board of Hearings
100 Hancock Street, Quincy, Massachusetts 02171*

APPEAL DECISION

Appeal Decision:	Denied	Issue:	Prior Authorization; Home Health Services
Decision Date:	09/13/2024	Hearing Date:	07/12/2024
MassHealth's Rep.:	Lisa Russell, RN, Optum	Appellant's Reps.:	
Hearing Location:	Quincy Harbor South (Telephone)	Aid Pending:	No

Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapter 118E, Chapter 30A, and the rules and regulations promulgated thereunder.

Jurisdiction

Through a notice dated May 31, 2024, MassHealth approved the Appellant for one skilled nursing visit per week and three as needed visits for the time period of May 23, 2024 to August 23, 2024, and denied medication administration visits because it was duplicative of services approved for the Appellant's personal care attendant. 130 CMR 450.204(A)(2) and Exhibit 1. The Appellant filed this appeal in a timely manner on June 5, 2024. 130 CMR 610.015(B) and Exhibit 2. Denial of assistance is valid grounds for appeal. 130 CMR 610.032.

Action Taken by MassHealth

MassHealth denied the Appellant's home health services provider's, Alternative Home Health Care's, request for medication administration services on the grounds that it was duplicative of services provided by the Appellant's personal care attendant, and which were less costly to

MassHealth.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 450.204(A)(2), in determining that the medication administration visits from the Appellant's home health services provider were not medically necessary as they were duplicative of other services already provided.

Summary of Evidence

The hearing was held by telephone. The Appellant is an adult between the ages of 21-64 and is a MassHealth Standard member. MassHealth was represented by a registered nurse. The MassHealth representative testified that on May 30, 2024, Alternative Home Health Care submitted an initial request for home health services on behalf of the Appellant. On May 31, 2024, MassHealth approved the Appellant for one skilled nursing visit per week for medication injection and three as needed visits for the time period of May 23, 2024 to August 23, 2024. MassHealth denied the requested medication administration visits because it was duplicative of personal care attendant services which MassHealth had already approved for medication administration and glucometer checks. The MassHealth representative testified that the Appellant's medical history includes [REDACTED] syndrome, rheumatoid arthritis, major depression, anemia, mild intellectual disability, Vitamin D deficiency, gastritis, stress incontinence, hypertension, prediabetes, and a knee replacement in April 2024. The MassHealth representative testified that the Appellant's personal care attendant checks and administers the Appellant's medication. The MassHealth representative testified that the Appellant's submitted patient records did not indicate that the Appellant was decompensating physically or was not compliant with taking her medications.

The Appellant verified her identity and testified through her daughter as an interpreter. The Appellant was also represented by a nurse and the director of nursing for Alternative Home Health Care, her home health services provider. They testified that the Appellant is prescribed twenty medications and they are concerned that too much trust is being placed in an unskilled personal care attendant. They testified that the Appellant's physician, [REDACTED], requested that a nurse through Alternative Home Health Care provide the requested medication administration for the Appellant.

At the hearing, the MassHealth representative asked the Appellant whether the personal care attendant was able to safely administer the medication as long as a nurse pre-fills the medication planner, and the Appellant stated that she was. The MassHealth representative also asked the Appellant if one skilled nursing visit a week for her injection and medication pre-fill along with the Appellant's personal care attendant providing medication administration was sufficient, and the Appellant said that it was sufficient.

The record was left open until July 19, 2024, for the Appellant's representative to provide Dr. [REDACTED] directive, and until July 26, 2024, for MassHealth to review and respond. Both parties submitted additional evidence during the record open period. Exhibits 6 & 7.

[REDACTED] April 12, 2024 note states:

Patient Risk for Emergency Room use or Hospitalization is assessed to be: Low and will be addressed with measures focusing on: Skilled assessment, observation, and education on med management/compliance, pain, safety, VS. Skilled Observation & Assessment of Medication Use/Effect, Vital Signs. C-Assess patient pain. C-Monitor the effectiveness of drug therapy, drug reactions, and side effects. Medications: S[killed] N[ursing]to administer medications at time of visit and prepour up until next visit. Monitor for compliance. Patient identified steps toward personal goal.: Compliance w visits, medications. Prefill medication containers.

Exhibit 6 at 4.

MassHealth responded by stating that the denial of medication administration visits was appropriate due to lack of medical necessity because "[t]here is a duplication of services and P[ersonal] C[are] A[ttendant] is a less costly form of medication administration." Exhibit 7 at 1.

Findings of Fact

Based on a preponderance of the evidence, I find the following:

1. The Appellant is an adult between the ages of 21-64 and is a MassHealth Standard member. Exhibit 4.
2. On May 30, 2024, Alternative Home Health Care submitted an initial request for home health services on behalf of the Appellant. Testimony.
3. On May 31, 2024, MassHealth approved the Appellant for one skilled nursing visit per week for medication injection and to pre-fill the Appellant's medication planner and three as needed visits for the time period of May 23, 2024 to August 23, 2024. Testimony; Exhibit 1.
4. MassHealth denied the requested medication administration visits on the grounds that it was duplicative of personal care attendant services which MassHealth had already approved. Testimony; Exhibit 1.
5. The Appellant's medical history includes [REDACTED] syndrome, rheumatoid arthritis, major

depression, anemia, mild intellectual disability, Vitamin D deficiency, gastritis, stress incontinence, hypertension, prediabetes, and a knee replacement in April 2024. Testimony; Exhibit 5.

6. The Appellant's personal care attendant administers the Appellant's pre-filled medications. Testimony.
7. The Appellant stated that one skilled nursing visit a week for her injection and medication pre-fill along with her personal care attendant providing medication administration was sufficient. Testimony.

Analysis and Conclusions of Law

The MassHealth regulations provide:

450.204: Medical Necessity

The MassHealth agency does not pay a provider for services that are not medically necessary and may impose sanctions on a provider for providing or prescribing a service or for admitting a member to an inpatient facility where such service or admission is not medically necessary.

(A) A service is medically necessary if

- (1) it is reasonably calculated to prevent, diagnose, prevent the worsening of, alleviate, correct, or cure conditions in the member that endanger life, cause suffering or pain, cause physical deformity or malfunction, threaten to cause or to aggravate a handicap, or result in illness or infirmity; and
- (2) there is no other medical service or site of service, comparable in effect, available, and suitable for the member requesting the service, that is more conservative or less costly to the MassHealth agency. Services that are less costly to the MassHealth agency include, but are not limited to, health care reasonably known by the provider, or identified by the MassHealth agency pursuant to a prior-authorization request, to be available to the member through sources described in 130 CMR 450.317(C), 503.007: *Potential Sources of Health Care*, or 517.007: *Utilization of Potential Benefits*.

(B) Medically necessary services must be of a quality that meets professionally recognized standards of health care, and must be substantiated by records including evidence of such medical necessity and quality. A provider must make those records, including medical records, available to the MassHealth agency upon request. (See 42 U.S.C. 1396a(a)(30) and 42 CFR 440.230 and 440.260.)

(C) A provider's opinion or clinical determination that a service is not medically necessary does not constitute an action by the MassHealth agency.

(D) Additional requirements about the medical necessity of MassHealth services are contained in other MassHealth regulations and medical necessity and coverage guidelines.

(E) Any regulatory or contractual exclusion from payment of experimental or unproven services refers to any service for which there is insufficient authoritative evidence that such service is reasonably calculated to have the effect described in 130 CMR 450.204(A)(1).

130 CMR 450.204.

MassHealth denied Alternative Home Health Care's initial request for skilled nursing services to administer the Appellant's medication on the grounds that the request was duplicative as MassHealth had approved time for the Appellant's personal care attendant to assist with administering the Appellant's medication. At the hearing, the Appellant testified that one skilled nursing visit a week for her injection and medication pre-fill along with her personal care attendant providing medication administration was sufficient for her needs.

In reviewing the evidence, including the April 12, 2024 notations from [REDACTED], I find that the Appellant has not met her burden in demonstrating that MassHealth erred in its May 31, 2024 denial of skilled nursing services for medication administration due to it being duplicative and therefore not medically necessary. The assessment indicates that the Appellant's risk for hospitalization is low and it does not indicate that the Appellant's medication administration needs must be performed by a nurse with Alternative Home Health Care rather than the Appellant's personal care attendant. Exhibit 6. Accordingly, the appeal is denied. 130 CMR 450.204(A)(2).

Order for MassHealth

None.

Notification of Your Right to Appeal to Court

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court, within 30 days of your receipt of this decision.

Implementation of this Decision

If this decision is not implemented within 30 days after the date of this decision, you should contact your MassHealth Enrollment Center. If you experience problems with the implementation of this decision, you should report this in writing to the Director of the Board of Hearings, at the address on the first page of this decision.

Emily Sabo
Hearing Officer
Board of Hearings



MassHealth Representative: Optum MassHealth LTSS, P.O. Box 159108, Boston, MA 02215