

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2411187
Decision Date:	09/26/2024	Hearing Date:	08/26/2024
Hearing Officer:	Alexandra Shube		

Appearance for Appellant:
Via Teams Videoconference:
Pro se

Appearances for ACO:
*Via Teams Videoconference for Mass General
Brigham Health Plan:*
Debbi Murphy, Mgr. Appeals & Grievances
Julie Balistreri, Sr. Mgr. Appeals & Grievances
David Lyczkowski, MD, Medical Dir.

Michaele Freeman, MCO Contract Mgr. for
MassHealth



*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:	ACO; Prior Authorization – Breast Implant Removal
Decision Date:	09/26/2024	Hearing Date:	08/26/2024
ACO's Reps.:	Debbi Murphy, et al.	Appellant's Rep.:	Pro se
Hearing Location:	Quincy Harbor South Remote	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 July 11, 2024, Mass General Brigham Health Plan (MGBHP), a MassHealth accountable care organization (ACO), informed the appellant that it had denied her internal appeal of a prior authorization request for breast implant removal because the medical evidence did not meet the medical necessity criteria (Exhibit 1). The appellant filed this appeal in a timely manner on July 18, 2024 (see 130 CMR 610.015(B) and Exhibit 2). An ACO's denial of a request for prior authorization is valid grounds for appeal to the Board of Hearings (130 CMR 610.032(B)(2)).¹

Action Taken by ACO

MGBHP denied the appellant's prior authorization request for breast implant removal.

¹ An accountable care organization is defined at 130 CMR 501.001 as an entity that enters into a population-based payment model contract with EOHHS as an accountable care organization, wherein the entity is held financially accountable for the cost and quality of care for an attributed or enrolled member population. ACOs include Accountable Care Partnership Plans, Primary Care ACOs, and MCO-Administered ACOs.

Issue

The appeal issue is whether MassHealth's agent or designee, MGBHP, was correct in denying the appellant's internal appeal of a prior authorization request for breast implant removal because the appellant did not meet the prior authorization and medical necessity criteria for the requested procedure.

Summary of Evidence

The appellant, who is an adult between the ages 21 and 65, appeared at hearing via Teams videoconference. MGBHP also appeared at hearing via Teams videoconference and was represented by its manager of appeals and grievances, senior manager of appeals and grievances, and medical director. The MCO contract manager for MassHealth also appeared at hearing via Teams videoconference as an observer.

MGBHP testified as follows: on April 30, 2024, MGBHP denied the appellant's prior authorization request for removal of breast implants because the requested service did not meet applicable medical necessity criteria. There was no pain associated with any clearly defined findings such as severe capsular contracture/scarring or evidence of direct infection. The breast implants were also not interfering with cancer treatment. MGBHP received an internal appeal request from the appellant on June 11, 2021. The appellant underwent an elective breast augmentation in [REDACTED]. In her appeal, the appellant stated she has had increasing pain and discomfort since the breast augmentation in [REDACTED]. She participated in physical therapy, but the pain has spread to her neck, back, shoulders, and arms. The appellant feels that the breast augmentation has taken a toll on her physical and mental health and she has begun to see a behavioral health specialist. After receiving the appellant's appeal, MGBHP requested additional documentation from her providers. Those records were received and reviewed by an external medical reviewer (a plastic surgeon) who also determined that the appellant did not meet medical necessity criteria for implant removal. On July 11, 2024, MGBHP denied the internal appeal and this is the notice now under appeal.

MGBHP explained that, to determine medical necessity for removal of breast implants, it uses InterQual criteria which is objective, evidence-based, and in alignment with MassHealth's Guidelines for Medical Necessity Determination for Breast Reconstruction and Breast Implant Removal. Breast implant removal is considered medically necessary when there is capsular contracture (scarring around the implant); evidence of an infection related to the implant; leakage or rupture; or interference with diagnosis or treatment of breast cancer. MGBHP reviewed all medical records submitted by the appellant's providers. Records from a March 15, 2024 visit with her physician indicated fatigue, chronic low back pain, and wanting to consider removal of breast implants, for which the doctor would refer her to a specialist. Records from an [REDACTED] visit with a plastic surgeon indicates the appellant was dissatisfied with the size, shape, and overall

feeling of her implants from the onset. She reported that, over the past two years, her neck and upper back have been very painful and she underwent two rounds of physical therapy. She described a tightness across her upper chest with normal breathing and activity which she perceived as related to her implants. She also stated her breasts are relatively ptotic compared to her preoperative breasts. She has been unable to workout which resulted in gaining 10 to 15 pounds. She denied specific breast symptoms and breast pain. There was no sign of capsular contracture, nipple sensation change, or other systemic issues.

The appellant testified that since she got her implants in [REDACTED], her overall health, both mental and physical, has declined. She cannot exercise, her range of motion is limited, and she has upper back, neck, and shoulder pain. She has to wear a back brace and has done two rounds of physical therapy. She has had trigger point injections to help with the pain and her muscles are so tight that she bent the needle. She did not feel that the two visits reviewed by MGBHP accurately reflected her need for implant removal. She said MassHealth bases breast implant removal on a case-by-case basis and she does not feel like that was done here. The implant removal is medically necessary for her because of the pain, her continuous use of specialists to address the pain, and the fact that the pain is not caused by anything other than the breast implants. She acknowledged that she did not have breast cancer, there was no capsular contraction, no leakage or rupture, and no infections related to the breast implants.

[REDACTED] explained that all documentation submitted was considered and it is the responsibility of the providers to send what is necessary. He did not doubt the appellant's symptoms; however, medical necessity is based on objective criteria. There are certain circumstances where it is medically necessary to remove breast implants. For example, if there is infection or capsular contracture (scarring) present, there is consensus among plastic surgeons that it is medically necessary to remove the implants to alleviate those symptoms. It is not uncommon to have back pain and other symptoms after breast implant; however, it can be very difficult to determine if removing implants will alleviate those symptoms. As such, back pain is not considered as part of the medical necessity criteria when evaluating for breast implant removal. He explained that MassHealth and MGBHP look at individual cases but are required to make a decision in as objective a way as possible and need to use consistent, evidence-based criteria when doing so. MGBHP covers services where there is good evidence that the service will be helpful. In the absence of capsular contracture, there is no evidence that breast implant removal is a helpful intervention for improving back pain. The appellant does not meet the medical necessity criteria outlined.

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 and 65 (Exhibit 4 and Testimony).

2. The appellant is enrolled in the Mass General Brigham Health Plan, a MassHealth accountable care organization (Testimony and Exhibit 5).
3. On April 30, 2024, MGBHP denied the appellant's prior authorization request for removal of breast implants because the requested service did not meet applicable medical necessity criteria (Testimony and Exhibit 5).
4. On June 11, 2021, the appellant filed an internal appeal with MGBHP (Testimony and Exhibit 5).
5. After a review of all documentation submitted, on July 11, 2024, MGBHP denied the internal appeal because the appellant did not meet medical necessity criteria as there was no evidence of capsular contracture (scarring around the implant) or an infection around the implant (Testimony and Exhibits 1 and 5).
6. On July 18, 2024, the appellant timely appealed the denial (Exhibit 2).
7. The appellant has experienced increasing pain and discomfort since the elective breast augmentation she received in 2020. She also reports tightness across her chest and a decrease in her overall mental and physical well-being. (Testimony and Exhibit 5).
8. The appellant does not have breast cancer, is not undergoing diagnosis for potential breast cancer, there is no capsular contraction, no leakage or rupture of the implant, and no infections related to the breast implants (Testimony and Exhibit 5).

Analysis and Conclusions of Law

MassHealth members who are younger than 65 years old must enroll in a MassHealth managed care provider available for their coverage type. Members described in 130 CMR 508.001(B) or who are excluded from participation in a MassHealth managed care provider pursuant to 130 CMR 508.002(A) are not required to enroll with a MassHealth managed care provider. 130 CMR 508.001(A).

Pursuant to 130 CMR 508.010(B), members are entitled to a fair hearing under 130 CMR 610.000: *MassHealth: Fair Hearing Rules* to appeal:

(B) a determination by the MassHealth behavioral health contractor, by one of the MCOs, Accountable Care Partnership Plans, or SCO's as further described in 130 CMR 610.032(B), if the member has exhausted all remedies available through the contractor's internal appeals process...

The appellant exhausted the internal appeal process offered through her ACO, and thus is entitled to a fair hearing pursuant to the above regulations. As MassHealth's agent, MGBHP is required to follow MassHealth rules and regulations pertaining to a member's care. By regulation, MassHealth will not pay for services that are not medically necessary. 130 CMR 450.204(A) states the following regarding medical necessity:

(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, or 517.007.

130 CMR 450.204(A).

The Guidelines for Medical Necessity Determination for Breast Reconstruction and Breast Implant Removal (hereinafter, the Guidelines) identify the clinical information that MassHealth needs to determine medical necessity for breast implant removal surgery. These Guidelines are based on generally accepted standards of practice, review of the medical literature, and federal and/or state policies and laws applicable to Medicaid programs. MassHealth requires prior authorization for breast implant removal on the basis of medical necessity.

The Guidelines state that MassHealth bases its determination of medical necessity for breast implant removal on clinical data including, but not limited to, indicators that would affect the relative risks and benefits of procedure, including post-operative recovery. Breast implant removal with or without capsulectomy is considered medically necessary if:

- a. Intended to correct, restore, or improve anatomical and/or functional impairments that result from leakage/rupture of a silicone gel-filled implant, extrusion of the implant through skin, implant infections refractory to medical management, tissue necrosis secondary to the implant, and cutaneous hypersensitivity-like reactions associated with breast implants that are refractory to conventional treatments;
- b. The implant interferes with diagnostic evaluation of a suspected breast cancer or interferes with a medically necessary treatment of a known breast cancer;

- c. The member has developed a symptomatic capsular contracture that (1) qualifies as either grade III or IV according to the Baker classification for capsular contracture, and (2) limits movement, leading to an inability to perform tasks that involved reaching or abduction.

MassHealth does not consider breast implant removal to be medically necessary under certain circumstances. Examples of such circumstances include, but are not limited to, the removal of asymptomatic, intact breast implants except for cases of cancer diagnosis and treatment as described previously.

The appellant's provider submitted a prior authorization request for breast implant removal. The appellant cited back pain, tightness across chest, and overall decline in both her physical and mental health as reasons for requesting the implant removal. While the appellant's testimony is credible, pursuant to 130 CMR 450.204 and the Guidelines, the appellant does not meet the medical necessity criteria for breast implant removal. Her implants are not ruptured or leaking, nor are they interfering with the treatment or diagnosis of breast cancer, there is not capsular contracture (scarring around the implant) and there is no infection. MassHealth does not consider removal of asymptomatic, intact breast implants to be medically necessary, except in cases of a cancer diagnosis.

For these reasons, the requested procedure is not medically necessary and the appeal is denied.

Order for ACO

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.

Alexandra Shube
Hearing Officer
Board of Hearings

MassHealth Representative: Mass General Brigham Health Plan, Medicare Advantage, Attn: MGBHP Appeals & Grievances Dept., 399 Revolution Drive, Suite 850, Somerville, MA 02145