

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2414469
Decision Date:	3/3/2025	Hearing Date:	11/04/2024
Hearing Officer:	Kimberly Scanlon	Record Open to:	02/28/2025

Appearance for Appellant:
Pro se

Appearance for MCO/MassHealth:
William Keogh, V.P., Senior Medical Director
for Utilization;
Priya Mehta, Esq., Assistant General Counsel;
Felicia DiSciscio, Manager of Members Appeals
and Grievances;
Kasey Arabasz, Senior Manager of Pharmacy
Operations



*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:	MCO; Denial of Internal Appeal; Medical Necessity
Decision Date:	3/3/2025	Hearing Date:	11/04/2024
MCO/MassHealth's Reps.:	William Keogh; Priya Mehta; Felicia DiSciscio; and Kasey Arabasz	Appellant's Rep.:	Pro se
Hearing Location:	Taunton MassHealth Enrollment Center Room 1 (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 September 13, 2024, WellSense Health Plan ("WellSense"), a MassHealth managed care organization (MCO), notified the appellant that it had upheld the denial of her request for [REDACTED] (Exhibit 3, pp. 1-2). The appellant filed this appeal in a timely manner on or about September 20, 2024.¹ (130 CMR 610.015(B); Exhibit 2). Members enrolled in a MassHealth MCO have a right to request a fair hearing regarding a decision to deny coverage under certain circumstances. (130 CMR 610.023(B)(6)). The appellant exhausted WellSense's internal appeal process. (130 CMR 508.010(B)).

Action Taken by MCO

¹ The Board of Hearings (BOH) dismissed the appellant's initial appeal submission for not including the MassHealth notice that prompted her appeal. (Exhibit 2). This matter was scheduled for a hearing after the appellant submitted the notice. (See, Exhibits 3, 5).

WellSense, a MassHealth MCO, denied the appellant's request for [REDACTED]

Issue

The appeal issue is whether WellSense was correct in denying the appellant's request for [REDACTED]

Summary of Evidence

The appellant appeared at the hearing telephonically. WellSense was represented telephonically by its Senior Medical Director, Attorney, Manager of Appeals and Grievances, and Senior Manager of Pharmacy Operations. The record establishes the following: WellSense is a Managed Care Organization (MCO) and therefore an agent of MassHealth, bound by its contract with EOHHS and by the MassHealth regulations. The appellant is under the age of 65 and is a MassHealth Standard recipient. Her medical diagnoses include, but are not limited to, the following: [REDACTED]

[REDACTED] (Exhibit 6, p. 175). The appellant has been a WellSense member since approximately April 2023. On or about September 4, 2024, WellSense received the appellant's prior authorization (PA) request for [REDACTED] submitted by her provider. On September 4th, WellSense notified the appellant that her request was denied because: there was not any additional documentation submitted with the PA request indicating that she tried all other medications for her condition that are approved by the Food and Drug Administration (FDA). (Exhibit 3, p. 3; Exhibit 7, p. 68). The September 4th notice further stated that there was not any documentation from her provider stating the medical reason for which the appellant must use the requested medication. *Id.*

On September 10, 2024, the appellant submitted an expedited internal appeal. (Exhibit 7, p. 83). In support of her appeal, the appellant submitted previous medical records from her urologist and pain clinic provider. (Exhibit 6). Further, the appellant reported that she "cannot function without the medication. She cannot get out of bed without the med and is worried that she will not be able to function without the medication. She has been taking the med as needed for 10 years for [REDACTED] She has tried all the medications for the condition and has had bad reactions to some of the other medications. There are no other alternatives for treatment per the pain clinic. With this medication there have been no side effects. She took pain medication for 25 years and because of this medication she no longer requires the pain meds." (Exhibit 7, p. 52). On September 13, 2024, WellSense notified the appellant that after carefully reviewing her submission, her internal appeal was denied because the PA request does not meet criteria. (Exhibit 3, p. 1; Exhibit 7, p. 35). The September 13th notice further stated that there was not any documentation submitted from the appellant's provider that indicates that she tried clinically

appropriate FDA-approved alternative medications; or provided medical records documenting medical necessity. *Id.*

WellSense's Senior Medical Director testified that the issue with the appellant's request for a [REDACTED] is related to the fact that it is not FDA approved. He further explained that in accordance with the MassHealth Drug List and MassHealth requirements, WellSense would need to receive a prior authorization (PA) request from the appellant's provider, with supporting written documentation, indicating that the appellant has attempted FDA-approved alternatives found on the MassHealth Drug List [REDACTED] and that she experienced adverse reactions, detailing said reactions. (Testimony; Exhibit 7, p. 58). The appellant's provider would also need to submit a medical necessity letter stating the reason that the requested, non-FDA approved medication, is medically necessary to treat the appellant's medical condition. (Testimony; Exhibit 3, p. 1; Exhibit 7, p. 35).

The appellant appeared at the hearing telephonically. She asked how she was able to receive this medication previously if it is not FDA approved. In response, WellSense's Medical Director explained that a nurse practitioner or physician assistant from the pain clinic may have prescribed this medication to her in the past, prior to her enrollment with WellSense. He noted that WellSense does not have any paid claims on file indicating that it has previously approved the appellant's request for [REDACTED] (Exhibit 7, pp. 59-65).² The appellant asked if WellSense received her submission of records from her urologist and medical provider from the pain clinic. (Exhibit 6). WellSense's Medical Director explained that he received and reviewed her submission. He further explained that her submission did not include any supporting documentation from her providers. The appellant testified that she has attempted other medications, such as morphine, and experienced adverse reactions.

WellSense's Medical Director stated that he would review additional documentation submitted on behalf of the appellant from her provider, specifying the alternative, FDA-approved medications that the appellant has tried, the adverse reactions that she experienced to said medications, and a letter from her provider stating the reason that a [REDACTED] is medically necessary to treat her medical condition. The appellant asked if she could obtain this documentation from her pain clinic provider; she explained that she is in the process of finding a new urologist. WellSense's Medical Director confirmed that she could request this documentation from her pain clinic medical provider. Following the hearing, the record was left open for a brief period for the appellant's provider to submit additional documentation. (Exhibit 8). WellSense subsequently responded that it received the appellant's submission and upon review, upheld its denial. (Exhibits 9-10).³

² The record reflects that WellSense received PA requests from the appellant's provider for [REDACTED] on September 4, 2024, August 30, 2024, and August 27, 2024; all PA requests were denied. (See, Exhibit 7, p. 59).

³ The appellant's submission included a printout from a past medical visit, which indicated that she spoke to her

Findings of Fact

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

1. The appellant is enrolled in WellSense Health Plan, a managed care provider (MCO) which administers her MassHealth benefits.
2. The appellant is under the age of 65 with [REDACTED] Her medical diagnoses include, but are not limited to, the following: [REDACTED]
3. On or about September 4, 2024, the appellant's provider submitted a PA request to WellSense on behalf of the appellant for [REDACTED]
4. The appellant requested this medication to treat her [REDACTED]
5. On September 4, 2024, WellSense notified the appellant that her request was denied because: there was not any supporting documentation received from her provider indicating that: she tried other medications approved by the FDA and experienced adverse reactions, and a letter explaining the medical reason for which the appellant must use the requested medication.
6. On September 10, 2024, the appellant submitted an internal appeal.
7. On September 13, 2024, WellSense notified the appellant that her internal appeal was denied because it did not receive any supporting documentation from her provider.
8. On or about September 20, 2024, the appellant filed an external appeal with the Board of Hearings.
9. A fair hearing was conducted on November 4, 2024; WellSense maintained that it still had not received supporting documentation from the appellant's provider, including documentation to show that the appellant has tried alternative medications and experienced adverse reactions, and a letter of medical necessity.
10. After the hearing, the record was left open for the appellant's current provider to submit supporting documentation.

physician in October of 2024 for a medication refill. Her submission also included handwritten notations, presumably made by the appellant (See, Exhibit 9).

11. The appellant submitted a printout of a past office visit and handwritten notations (of unknown origin).
12. WellSense reviewed the appellant's submission and upheld the denial.

Analysis and Conclusions of Law

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 SCOs as further described in 130 CMR 610.032(B), if the member has exhausted all remedies available through the contractor's internal appeals process...

(130 CMR 508.010(B)).

The appellant has appealed WellSense's denial of a PA request for [REDACTED]. The appellant argues that this medication is medically necessary to treat pain related to her [REDACTED]. WellSense disagreed and determined that the appellant has not established medical necessity.

The MassHealth agency will 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).

Further, the MassHealth agency does not pay for any experimental, unproven, cosmetic, or otherwise medically unnecessary procedure or treatment (130 CMR 433.451(B)).

MassHealth has issued a sub-regulatory document entitled “MassHealth Pharmacy Operational Page.” (Exhibit 7, pp. 81-82).⁴ This document lists operational information related to the MassHealth Pharmacy Program. That document sets forth that non-FDA-approved drugs require PA and will be evaluated for medical necessity. Documentation of all of the following is required: appropriate diagnosis and trials of all clinically appropriate FDA-approved alternatives (Exhibit 7, p. 81).

In the present case, the appellant’s medical provider submitted a PA request without any supporting documentation. The record includes evidence that the appellant has [REDACTED] (Exhibit 6, p. 175). However, despite a post-hearing opportunity to submit additional documentation, the appellant did not submit documentation verifying trials of all clinically appropriate FDA-approved alternatives to treat the pain related to these conditions, such as morphine and/or hydromorphone suppositories. On this record, the appellant has not demonstrated that the requested medication is medically necessary, and the appeal is denied.

Order for MCO

None.

⁴ The MassHealth Pharmacy Operational Page can be found at:
<https://mhdluat.pharmacy.services.conduent.comMHDL/pubdownloadpdfwelcome.do?docId=528&fileType=PDF>.

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.

Kimberly Scanlon
Hearing Officer
Board of Hearings

cc.

MCO Representative: BMC Wellsense, Member Appeals & Grievances, Attn: Felicia DiSciscio,
529 Main Street, Ste. 500, Charlestown, MA 02129