

# Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2418438
Decision Date:	02/25/2025	Hearing Date:	01/08/2025
Hearing Officer:	Christopher Jones		

Appearance for Appellant:



Appearances for the MCO:



Observing from MassHealth:

Elana Horwitz, MPH, MassHealth Managed  
Care Department



*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

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Managed Care Organization - Denial of Internal Appeal; Out-of-Network Provider
<b>Decision Date:</b>	02/25/2025	<b>Hearing Date:</b>	01/08/2025
<b>MCO Reps:</b>	Dr. David Dohan; Nicole Dally; Molly Cochran, Esq.	<b>Appellant's Rep.:</b>	██████
<b>Hearing Location:</b>	Telephonic	<b>Aid Pending:</b>	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 letter denying the appellant's Standard Appeal dated November 20, 2024, Tufts Health Together ("Tufts"), a managed care organization ("MCO") and accountable care partnership plan administering health benefits for MassHealth members, denied authorization for the appellant to see a specific doctor, ██████████, because he was not an in-network provider. (Exhibit 1; Exhibit 6, pp. 131-132.) The appellant filed this appeal in a timely manner on December 2, 2024. (Exhibit 2; 130 CMR 610.015(B).) A managed care contractor's decision to limit requested services is grounds for appeal. (130 CMR 610.032(B).)

### Action Taken by Tufts Health Together

Tufts denied the appellant's request to see an out-of-network provider because in-network providers are available to treat the appellant, and Tufts believes it is not medically necessary for the appellant to be seen by an out-of-network provider.

## Issue

The appeal issue is whether Tufts was correct, pursuant to 130 CMR 450.204 and 508.004(B), in determining that it is not medically necessary for the appellant to see an out-of-network provider.

## Summary of Evidence

Tufts' representatives appeared by phone and reviewed the submitted requests for out-of-network ("OON") visits to [REDACTED]. The initial request was received by Tufts on September 5, 2024. This request sought prior authorization for out-of-network coverage because the member has a rare medical condition and there are no in-network ("INN") providers with the expertise to treat it. The form states: "Member suspects he has had toxic mold exposure and wishes to diagnose and treat possible mold toxicity. [REDACTED] specializes in allergies, chronic illness, and environmental illnesses." (Exhibit 6, p. 14-17.)

On September 6, 2024, Tufts requested additional clinical documentation from [REDACTED] justifying why an out-of-network provider was needed to treat the appellant. The request specifically sought ICD-10 diagnoses codes and clinical records supporting the diagnoses. (Exhibit 6, p. 26.) On September 9, 2024, [REDACTED] office responded via fax that the appellant had not been seen yet, so they have not made any diagnoses, nor did they have any clinical records. The fax states that the appellant "is interested in coming to be diagnosed and treated for suspected mold toxicity exposure," and notes that ICD-10 code Z77.120 is a "possible diagnosis." (Exhibit 6, p. 37.)

Tufts Health Together denied the prior authorization request on September 9, 2024, informing the appellant that he should look for an in-network provider. Tufts would

consider the opinion and recommendation of an INN specialty provider that it is medically necessary for you to receive such services by an OON specialist provider if: your primary language is one that the treating INN provider does not speak and no INN provider speaks, and it is the treating provider's opinion that treatment is highly likely to be compromised due to the language barrier and the insufficiency of translation services available in the service area; if you are a resident in a nursing home, or inpatient in a skilled nursing facility ... ; and if INN providers ... are not reasonably available within Tufts Health Plan's geographic access standards ... ; or if there is significant delay in getting an appointment with the INN provider which would cause an adverse impact on your condition ... .

(Exhibit 6, p. 82-83.)

On September 11, 2024, [REDACTED] office submitted another prior authorization request identifying that the appellant "was diagnosed for mold exposure by another OON Provider who

was unable to treat the mold toxicity, [REDACTED] and this office are the only providers that can test and treat for this condition. Member wishes to transfer his care.” (Exhibit 6, p. 45.) Attached to this request is a letter that states the appellant “called Tufts to inquire about where to find In Network Coverage for the treatment of mold toxicity and was told that there are no available INN providers who offer that care.” (Exhibit 6, p. 48.) The letter goes on to explain that another out-of-network provider, [REDACTED] diagnosed the appellant as having mold toxicity.

Unfortunately, [REDACTED] is not able to treat the Mold Toxicity. [REDACTED] is the only provider in the state of MA that is able to test and treat for this condition. Please see the attached clinical documentation and lab results to support the need for the member to see [REDACTED] with INN insurance coverage. We would like to request one New patient Office Visit to establish care, as well as 12 follow up office visits. The potential for future, more in-depth testing that we offer at our office will need the approval of 6 testing sessions with CPT code 95024, as well as CPT code 86003.

(Exhibit 6, p.48.)

Attached to this letter was a diagnostic test performed by Quest Diagnostics on or around June 27, 2024. This test found “PENICILLIUM CHRYSOGENUM/ NOTATUM IGG\*” at a high value of 48.8 mcg/mL. The reference range was < 22.0 mcg/mL. The notes under this finding state “Antibody levels greater than the reference range indicate that the patient has been immunologically sensitized to the antigen. The significance of the elevated IgG depends on the nature of the antigen and the patient’s clinical history.” (Exhibit 6, p. 50.) An endnote states that the test “was performed using a kit that has not been cleared or approved by the FDA. ... This test should not be used for diagnosis without confirmation by other medically established means.” (Exhibit 6, p. 51.) The only medical record from [REDACTED] appears to be an order for a “HOMOCYSTEINE” exam on July 22, 2024. This order also documents the appellant as having “Mold exposure (Z77.120)” and a house dust allergy. (Exhibit 6, p. 52.)

Tufts denied this request on September 17, 2024. (Exhibit 6, pp. 91-92.) The appellant filed an internal appeal on or around October 23, 2024. (Exhibit 6, pp. 99-111.) Included with this appeal filing, the appellant submitted letters from 3 in-network providers. One letter was from [REDACTED] who worked at the same medical facility as [REDACTED]. [REDACTED] wrote a letter dated September 24, 2024, stating the appellant “was seen for visits on [REDACTED] and [REDACTED]. His environmental skin testing, which tests for IgE mediated allergy, was negative for pollens, animals, dust mites, and molds. There is no other testing that we can offer for mold-related conditions.” (Exhibit 6, p. 102.) On September 24, 2024, [REDACTED] wrote from another medical facility to thank the appellant “for reaching out in advance of my scheduled review with yourself on 5/20/2025. It was a good idea as you learned that it is not in the scope of my clinical practice to treat mold toxicity. I do support your efforts to look for another provider with this expertise.” (Exhibit 6, p. 100.) On October 3, 2024, another medical facility wrote “[REDACTED] does not diagnose or treat mold toxicity. For this reason, [the appellant] opted to cancel his upcoming

new patient appointment.” (Exhibit 6, p. 106.) All three of these doctors worked in Allergy and Immunology practices.

The appellant’s primary care physician wrote a letter dated October 10, 2024, that the appellant’s “recent lab results shows abnormal levels of mold antibodies in his blood. Due to these abnormal levels, it is my medical opinion that [the appellant] should be evaluated by an infectious disease doctor.” (Exhibit 6, p. 107.) [REDACTED] office also wrote a letter:

[REDACTED] our medical director here at [REDACTED], provides a highly comprehensive level of testing and treating Mold Toxicity, unlike any other provider or medical office in the member's network. He utilizes specialty labs such as Realtime Laboratories, Mosaic Diagnostics, and Microbiology Dx to test for possible mold exposure and toxicity. ... He also uses specific blood tests as well, which many providers and offices do not know about or utilize. In fact, many diagnostic labs do not even know how to drawn [sic] and process these particular blood tests. This office has a special relationship with Quest Diagnostics and they are the only laboratory that knows [sic] these tests and can correctly process and result them.

Once a mold toxicity has been identified, [REDACTED] has a range of treatments that he may recommend. He may order a compounded nasal spray through the compound pharmacy [REDACTED] which we have worked with extensively for many years. He also might recommend prescriptions and/or supplements and binders. Our office also offers N therapies specifically for mold exposure and liver support, which are not commonly found at other practices.

If the mold exposure may be determined to be an allergy, then our office also offers allergy testing and treatment. We offer allergy testing through bloodwork to test for IgE and IgG reactions.

...

[REDACTED] is well known for his unusual approach to testing and treating various problems, and our office practices a "patient-first" relationship with all of our patients. The field of integrative health and medicine reaffirms the importance of the relationship between practitioner and patient, focuses on the whole person, is informed by evidence, and makes use of all appropriate therapeutic approaches, healthcare professionals and professions to achieve optimal health and healing. Simply put, integrative health and medicine offer best practices for optimal health and healing.

(Exhibit 6, pp. 104-105.)

Tufts sought an independent medical review on or around November 7, 2024. The reviewer is Board Certified in Allergy and Immunology and Pediatrics. The reviewer reached out to [REDACTED]



office twice on November 7, 2024, and again on November 8, 2024, leaving voicemails each time. They did not receive a call back. The independent consultant noted that “The patient already had a mold evaluation, and the results were negative. An in-network provider can provide additional care. Therefore, these services are not so specialized that the patient cannot receive them from an in-network provider.” The reviewer noted that the appellant “had mold concerns and had allergy testing done that was negative for molds.” (Exhibit 6, pp. 127-128.) Tufts denied the appellant’s internal appeal on November 20, 2024. (Exhibit 6, pp. 131-133.)

██████████ testified on behalf of Tufts Health Together. ██████████ practices internal medicine and he is the chair of the appeals committee. ██████████ reviewed the coverage criteria by which Tufts Health Together will authorize an out-of-network provider. Essentially, Tufts Health Together will only cover an out-of-network provider if they are providing covered services and there is no in-network provider who could provide the same services. (See Exhibit 6, pp. 71-77.) ██████████ testified that it is not clear what condition the appellant is seeking to treat. The denials sent out by Tufts repeatedly sought a diagnosis and clinical notes that supported that diagnosis. In response, the appellant provided letters from ██████████ stating that they were the only practice that can perform diagnostic tests necessary to find out that the appellant has mold toxicity, but also indicating that the appellant was already diagnosed with mold toxicity. ██████████ testified that the term “mold toxicity” could mean an allergy to mold, an ongoing environmental exposure to toxic mold, or in rare circumstances a mold infection.

██████████ argued that the appellant has yet to submit any clinical evidence that he has any condition that could be considered “mold toxicity.” ██████████ noted that the diagnostic test results ordered by ██████████ only identify that the appellant had been exposed to mold in the past. It does not confirm a current exposure or a pathological infection. All the provider letters state that either the provider has never treated the appellant, or confirmed that he did not have a mold allergy. ██████████ further noted that the appellant does not appear to have ever reached out to an infectious disease doctor, per his primary care physician’s recommendation, to determine whether his condition is a rare mold infection.

Regarding ██████████, ██████████ testified that he is aware of ██████████ and his practice. ██████████ testified that ██████████ website identifies ██████████ as Board Certified in “Integrative Medicine,” but there is no such board certification. ██████████ is a board-certified Family Practitioner. ██████████ testified that there are three certifications that one would normally look for to treat mold toxicity: allergy and immunology, infectious disease, or occupational and environmental medicine. ██████████ opinion was that ██████████ is not qualified to treat the condition for which the appellant has sought his services, and that there are providers in-network who would be able to treat the appellant for mold exposure. ██████████ testified that the labs referenced by ██████████ are not widely used because they are not qualified Medicare or MassHealth diagnostic facilities. The tests referenced by ██████████ are generally not considered to be the standard of care. Finally, ██████████ testified that ██████████ office is not contracted with MassHealth, in addition to not being contracted with Tufts Health Together.

The appellant did not have a formal definition of what “mold toxicity” would be. The appellant testified that he believes he has been exposed to toxic mold in his apartment, and that is why he is seeking treatment with [REDACTED]. The appellant testified at length regarding the distinction between IgE and IgG diagnostic testing. The appellant testified that he believed mold toxicity to be more than just a mold allergy, and that additional testing was needed to identify and treat the specific mold toxicity that he has. The appellant believed that one could not have a mold allergy, yet still experience mold toxicity. The appellant testified that he suffers effects to sleep, mood, memory, and concentration, and he associates these symptoms with “mold toxicity.”

The appellant went through much of Tufts’ prepared documentation and identified typographical errors, mostly as to dates on which he received care. The appellant also noted that Tufts’ summary chronology did not include additional dates on which correspondence took place. The additional correspondence he referenced was included in Tufts overall exhibit packet. The appellant disputed [REDACTED] letter, saying that she only reviewed IgE testing. The appellant argued this is just one part of mold testing, and the reason he wanted to go to [REDACTED] was to get both IgE and IgG testing. The appellant testified that he went to another allergist’s office in July, and he submitted test results from this office. The appellant was concerned that these test results had not been considered prior to the internal appeal denial, because they were submitted to Tufts shortly before the internal denial was issued.<sup>1</sup>

The appellant testified that this allergist, [REDACTED], performed a series of skin tests. The submitted document is dated July 11, 2024, and it lists 4 series of tests. A legend identifies codes for negative, positive, moderately positive, very positive, and markedly positive. The first series was a “puncture/prick” test at a 1:10 dilution. It was negative for mold response. Series 2 was identified as an intradermal test, or an injection into the skin, of a 1:1000 dilution, and it was negative for mold response. Series 4<sup>2</sup> was an intradermal test at a 1:100 dilution, and it was negative for mold response. Series 5, an intradermal retest at a 1:10 dilution was “positive” for mold. “Positive” was the mildest reaction identified in the legend.

The appellant initially testified that he has pursued consultations with infectious disease doctors, but then stated that there are no allergists, immunologists, or environmental doctors available through Tufts who can treat him. The appellant has worked with Tufts Health Together’s customer services representatives to attempt to find an allergist, immunologist, or environmental specialist who treats “Mold Toxicity.” The appellant testified that they told him there are no doctors who treat mold in Tufts’ network. The appellant was repeatedly asked about infectious disease specialists, and he repeatedly related it back to immunologists.

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<sup>1</sup> Tufts representatives confirmed that they had received them, and they were omitted from this hearing packet by accident.

<sup>2</sup> Series 3 was for other allergens and either had no response or was not performed.



The appellant testified further that [REDACTED] was out-of-network with Tufts, and he was approved for six visits with [REDACTED]. The appellant testified that [REDACTED] diagnosed his mold toxicity. The appellant testified that he lives in a basement unit, and the pipes have been leaking. He testified that this likely created mold, and he suspects that he has been exposed to mold. The appellant did not affirmatively state that his apartment has ever tested positive for mold. The appellant testified that he described his history to [REDACTED] and [REDACTED] confirmed that he had been exposed to mold, and that was the basis for his mold toxicity diagnosis. When the appellant called all of the other allergists and immunologists identified by Tufts, he would explain his history, describe his symptoms, “describe both the IgG and IgE,” and the diagnosis by [REDACTED]. At that point, the practices would offer to mail him a letter stating that they did not treat mold toxicity.

It was pointed out that the appellant is only diagnosed with mold exposure, but he appeared fixated on the idea that he had a specific diagnosis of mold toxicity. The appellant again focused on IgG and IgE testing. The appellant testified that one of those tests would determine if he had an allergic response to mold, but the other would confirm that his symptoms of poor concentration and memory were related to mold. The appellant’s concern was that the allergy testing being performed by allergists would only identify if he had a mold allergy. The appellant believed that the additional testing [REDACTED] would perform would confirm his mold toxicity existed without having a mold allergy. The appellant testified that [REDACTED] report clearly shows that if they got through additional tests, there will be positive findings. The appellant testified that if the tests through [REDACTED] office confirmed he has a mold allergy, [REDACTED] office has allergists on staff who will then be able to treat his mold toxicity. If it was not an allergy, the appellant believed that [REDACTED] would bring in an environmental specialist or whatever other treatments were needed to resolve his symptoms.

The appellant testified that [REDACTED] diagnostic tests are needed to identify the specific mold that is causing his toxicity, so that he can identify the right treatment for that specific mold. It was pointed out that, even if [REDACTED] office visit was approved, there is no certainty that Tufts would authorize the requested diagnostic tests. [REDACTED] testified that many of these tests are not FDA approved diagnostic tests and would be considered experimental. The appellant stated that was not true, because [REDACTED] needs to identify the specific mold to which he is being exposed, therefore the diagnostic tests would be medically necessary.

The appellant felt there was confusion arising because mold toxicity and mold exposure were interchangeable terms. When [REDACTED] refers to mold toxicity, the appellant understood him to be saying mold exposure. When asked how the appellant knows there is ongoing mold exposure, the appellant testified that would be part of [REDACTED] treatment plan. [REDACTED] would have someone evaluate his housing to determine if there is ongoing mold exposure. Even if there is not, [REDACTED] would be able to identify the correct pharmaceutical, nutraceutical, or supplement therapies that would help heal the prior mold exposure. The appellant feels that his mold exposure is undoubtedly the source of his symptoms, and therefore the only way forward is to find a physician who can confirm his mold-based ailment and then proceed to treat it.



Tufts' representative responded that there is insufficient evidence to support the lack of in-network clinicians who could treat the appellant's medical condition. Tufts' representatives noted that the appellant has not seen an infectious disease physician. Furthermore, the appellant presented a lot of clinical documentation on his own that is not supported by treating physicians. Nor did it appear that [REDACTED] was qualified to treat the appellant's medical conditions. [REDACTED] also clarified that customer service representatives cannot identify medical providers who treat mold toxicity. The customer service representatives are not qualified to determine what in-network physicians treat, they can only refer patients to providers based upon their specialty. [REDACTED] opined that the treatments described as being offered by [REDACTED] would be considered experimental and investigational, and therefore not covered. [REDACTED] noted there are many physicians in Tufts' network that treat mold exposure, but it sounds like the real issue is that they are not offering the specific diagnostics and treatments the appellant wants. For instance, the simplest treatment for mold exposure is to avoid the exposure. If the condition is in his housing, the solution to that is not necessarily medical care.

At the end of the hearing, the appellant alleged that there were many facts presented by Tufts that he had not had a chance to address. The appellant referenced his pre-hearing letter, submitted with [REDACTED] allergy testing, which highlighted disagreements with the independent clinical review. Specifically, the appellant noted that the independent reviewer did not acknowledge the elevated mold levels from the test ordered by [REDACTED] or the positive result to the 1:10 dilution intradermal retest by [REDACTED]. The appellant believed that these tests documented his diagnosis of "mold toxicity." The appellant also disputed the independent consultant's note stating that [REDACTED] had not responded to phone calls. The appellant's letter states, "I feel it is very important for me to follow my PCP's recommendation i.e. to receive correct evaluation & testing by a specialist for Mold Toxicity so I can receive the right treatment protocol." (Exhibit 8.) The appellant repeatedly argued that there are no in-network providers who can treat him.

## Findings of Fact

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

- 1) The appellant is a member of Tufts Health Together, an Accountable Care Partnership Plan. (Testimony by Tufts' representatives; Exhibit 6, pp. 10, 71.)
- 2) The appellant is suffering from poor concentration and memory, amongst other symptoms. The appellant lives in an apartment that has had leaks, and the appellant believes that his apartment either has mold or had mold while he has lived there. (Testimony by the appellant.)
- 3) On or around June 27, 2024, Quest Diagnostics performed a *Penicillium Chrysogenum*/Notatum IgG diagnostic test ordered by [REDACTED]. This test identified high levels of *Penicillium Chrysogenum* antibodies. This test "was performed using a kit that has

not been cleared or approved by the FDA. ... This test should not be used for diagnosis without confirmation by other medically established means.” (Exhibit 6, pp. 50-51.)

- 4) On or around July 11, 2024, the appellant went to another allergist/immunologist, [REDACTED] who performed a series of skin tests. The appellant was negative for mold response in the Series 1, 2, and 4 tests. The Series 5 test, an intradermal retest with a 1:10 dilution, was minimally positive for mold reaction. (Exhibit 9.)
- 5) On or around July 22, 2024, [REDACTED] documented the appellant as having an “ICD-10 Diagnosis” of “Mold exposure (Z77.120)” (Exhibit 6, p. 52.)
- 6) On or around September 5, 2024, [REDACTED] sought prior authorization for an initial office visit to establish care because “Member suspects he has had toxic mold exposure and wishes to diagnose and treat possible mold toxicity. [REDACTED] specializes in allergies, chronic illness, and environmental illnesses.” (Exhibit 6, pp. 13-17.)
- 7) On September 6, 2024, Tufts requested additional clinical documentation from [REDACTED] justifying why an out-of-network provider was needed to treat the appellant. The request specifically sought ICD-10 diagnoses codes and clinical records supporting the diagnoses. (Exhibit 6, p. 26.)
- 8) On September 9, 2024, [REDACTED] office confirmed they had made no diagnoses and noted the appellant “is interested in coming to be diagnosed and treated for suspected mold toxicity exposure,”; [REDACTED] noted further that ICD-10 code Z77.120 is a “possible diagnosis.” (Exhibit 6, p. 37.)
- 9) Tufts Health Together denied the prior authorization request on September 9, 2024, because [REDACTED] is not an in-network provider. (Exhibit 6, pp. 82-83.)
- 10) On September 11, 2024, [REDACTED] office submitted another prior authorization request identifying that the appellant “was diagnosed for mold exposure by another OON Provider who was unable to treat the mold toxicity, [REDACTED] and this office are the only providers that can test and treat for this condition. Member wishes to transfer his care.” The request sought authorization for a “New patient Office Visit to establish care, as well as 12 follow up office visits. The potential for future, more in-depth testing that we offer at our office will need the approval of 6 testing sessions with CPT code 95024, as well as CPT code 86003.” (Exhibit 6, pp. 45, 48.)
- 11) Tufts denied this request on September 17, 2024. (Exhibit 6, pp. 91-92.)
- 12) The appellant filed an internal appeal on or around October 23, 2024. The appellant submitted letters from three Allergy and Immunology practices, [REDACTED] office. (Exhibit 6, pp. 99-111.)

- 13) [REDACTED] wrote a letter dated September 24, 2024, stating the appellant “was seen for visits on [REDACTED] and [REDACTED]. His environmental skin testing, which tests for IgE mediated allergy, was negative for pollens, animals, dust mites, and molds. There is no other testing that we can offer for mold-related conditions.” (Exhibit 6, p. 102.)
- 14) On September 24, 2024, [REDACTED] wrote “that it is not in the scope of my clinical practice to treat mold toxicity. I do support your efforts to look for another provider with this expertise.” (Exhibit 6, p. 100.)
- 15) On October 3, 2024, the last letter noted that “[REDACTED] does not diagnose or treat mold toxicity. For this reason, [the appellant] opted to cancel his upcoming new patient appointment.” (Exhibit 6, p. 106.)
- 16) The appellant’s primary care physician wrote a letter dated October 10, 2024, that the appellant’s “recent lab results show abnormal levels of mold antibodies in his blood. Due to these abnormal levels, it is my medical opinion that [the appellant] should be evaluated by an infectious disease doctor.” (Exhibit 6, p. 107.)
- 17) The appellant has never sought an appointment with an infectious disease doctor. (Testimony by the appellant.)
- 18) [REDACTED] practice submitted a letter stating that he works with a wide array of diagnostic organizations and uses many diagnostic tests that other doctors would not order. “Once a mold toxicity has been identified” there are a variety of special treatments that [REDACTED] could order that “are not commonly found at other practices.” If the appellant were found to have a mold allergy, [REDACTED] office offers allergy treatments. (Exhibit 6, pp. 104-105.)
- 19) Many of the diagnostic tests and treatments that [REDACTED] prescribes are not widely covered by insurers. Many of them are not approved by the FDA for diagnostic purposes, such as the test ordered by [REDACTED] (Testimony by Dr. Dohan; Exhibit 6, pp. 50-51.)
- 20) [REDACTED] office is not contracted with either Tufts Health Together or MassHealth. (Testimony by Tufts representatives.)
- 21) Tufts sought an independent medical review on or around November 7, 2024. The reviewer is Board Certified in Allergy and Immunology and Pediatrics. The independent consultant noted the appellant “had a mold evaluation, and the results were negative.” The reviewer noted that the appellant “had mold concerns and had allergy testing done that was negative for molds.” The independent medical reviewer felt that the appellant’s condition could be treated by in-network providers. (Exhibit 6, pp. 127-128.)
- 22) Tufts denied the appellant’s internal appeal on November 20, 2024. (Exhibit 6, pp. 131-133.)

- 23) The diagnostic test that found the appellant has heightened mold antibodies only indicates that the appellant has been exposed to this mold strain at some point in his life. It does not confirm an ongoing exposure, nor does it confirm that the appellant has negative reactions to this mold. (Testimony by Dr. Dohan.)

## Analysis and Conclusions of Law

MassHealth specifically defines a “provider” to be “an individual, group, facility, agency, institution, organization, or business that furnishes medical services and **participates in MassHealth under a provider contract with the MassHealth agency.**” (130 CMR 450.101 (emphasis added).) The requirement that Medicaid providers be participating providers is also reflected in the federal law: “The State Medicaid **agency must require all** ordering or referring physicians or other **professionals providing services** under the State plan or under a waiver of the plan to **be enrolled as participating providers.**” (42 CFR § 455.410(b) (emphasis added).)

As a preliminary matter, if the appellant received his coverage directly from MassHealth, this appeal would be denied on the grounds that [REDACTED] is not a MassHealth provider. As a MassHealth contracted Managed Care Organization, Tufts Health Together is allowed to offer coverage differently than MassHealth would directly. A Managed Care Organization is responsible for delivering “the member’s primary care, decide if the member needs medical or other specialty care from other providers, and make referrals for such necessary medical services.” (130 CMR 508.001(B)(1); see also 130 CMR 450.105; 130 CMR 508.001(A).) “All medical services to members enrolled in an MCO (except those services not covered under the MassHealth contract with the MCO, family planning services, and emergency services) are subject to the authorization and referral requirements of the MCO.” (130 CMR 508.004(B); see also 130 CMR 450.105(A)(3).)

Tufts Health Together authorizes out-of-network providers under limited circumstances. Essentially, Tufts Health Together will only cover an out-of-network provider if there is no in-network provider who could provide a covered service in a way that meets the member’s needs.<sup>3</sup> (See Exhibit 6, pp. 71-77.) In order to determine whether any in-network providers could meet the appellant’s needs, it must first be determined what services the appellant wants covered.

The appellant believes that he has been exposed to a toxic mold, possibly through his apartment. The appellant is also suffering from various symptoms, including poor concentration and memory. In the summer of 2024, the appellant received positive findings from two diagnostic tests. One indicated a high level of *Penicillium Chrysogenum* antibodies, and the other confirmed a mild allergic reaction to mold when a 1:10 dilution was injected into his skin. [REDACTED] diagnosed the appellant with “mold exposure.” [REDACTED] then informed the appellant that

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<sup>3</sup> Tufts Health Together does not appear to limit its network to those physicians who are MassHealth providers. Nothing in Tufts Health Together’s out-of-network coverage criteria limits its network to MassHealth providers.



there were no further treatments that [REDACTED] could provide with regards to the appellant's exposure to mold. The appellant has received the same information from other allergists/immunologists. Two other allergists/immunologist further stated that they do not treat "mold toxicity." The appellant's PCP recommended that he consult with an infectious disease expert, but the appellant has not done so.

No doctor has diagnosed the appellant with "mold toxicity." The appellant has symptoms, and he has mold exposure. This does not mean that his symptoms are related to his mold exposure, and nothing in the record indicates that they are. [REDACTED] is the only doctor who has been willing to state that he would treat the appellant's "mold toxicity." However, [REDACTED] own prior authorization requests confirm that the appellant has not been diagnosed with "mold toxicity." The appellant has shown that the in-network providers he contacted are not willing to provide additional tests to prove that the appellant's condition is related to a mold allergy, but the appellant has not established that an in-network doctor cannot treat his symptoms.<sup>4</sup> Because no evidence establishes that the appellant has "mold toxicity," the fact that [REDACTED] is the only doctor willing to treat "mold toxicity" is inconclusive, and this appeal is DENIED.

It is worth noting that [REDACTED] prior authorization sought approval to order additional diagnostic testing. The appellant believes that any diagnostic tests [REDACTED] ordered would be approved. [REDACTED] argued that much of the medicine practiced by [REDACTED] is viewed as experimental and investigational. MassHealth "does not pay a physician for performing, administering, or dispensing any experimental, unproven, cosmetic, or otherwise medically unnecessary procedure or treatment." (130 CMR 433.404(B); see also 130 CMR 450.204(E).) These restrictions are also included in Tufts Health Together's Member Handbook. (See Exhibit 10, p. 92.) At this time, no specific tests or treatments had been ordered, so this appeal need not reach the question of whether they are non-covered as experimental.

## Order for the MCO

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.

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<sup>4</sup> This is not a finding that the appellant's symptoms are unrelated to his mold exposure. I simply highlight the lack of evidence in the record connecting the symptoms with the purported cause.

Christopher Jones  
Hearing Officer  
Board of Hearings

cc: MCO Representative: Tufts Health Plan Plan SCO, Attn: Nicole Dally, Program Manager,  
Appeals and Grievance, 1 Wellness Way, Canton, MA 02021

MassHealth Representative: Elana Horwitz, MPH, MassHealth Managed Care Department