

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2419249
Decision Date:	3/7/2025	Hearing Date:	01/24/2025
Hearing Officer:	Thomas Doyle	Record Open to:	N/A

Appearance for Appellant:



Appearance for MassHealth:

Nelisette Rodriguez, RN



*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:	3/7/2025	Hearing Date:	01/24/2025
MassHealth's Rep.:	Nelisette Rodriguez, RN	Appellant's Rep.:	
Hearing Location:	Remote (phone)	Aid Pending:	Yes

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 December 10, 2024, MassHealth informed appellant that it modified his prior authorization (PA) request for Home Health Services. (130 CMR 450.204; Ex. 1; Ex. 4). A timely appeal was filed on December 16, 2024, by appellant and his home health services are protected at the current levels pending the outcome of this appeal. (130 CMR 610.015; Ex. 2). A change in the level of assistance is valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

MassHealth plans to modify the appellant's request for HHS¹ services.

Issue

Did MassHealth correctly modify appellant's prior authorization request for HHS hours.

¹ MassHealth's Home Health Services (HHS) program includes, but is not limited to, skilled nursing visits (SNV), medication administration visits (MAV), and home health aides (HHA).

Summary of Evidence

The MassHealth representative (MH rep), who works for Optum, the contractor who makes the home health services decisions for MassHealth, and the appeal representative (appeal rep) both appeared by phone and were sworn. The MH rep testified appellant is a male in his early thirties who is alert and oriented. He is diagnosed with major depressive disorder and Type II diabetes without complications. Appellant resides in a twenty-four-hour certified medication administration program (MAP) group home.

The MH rep stated MassHealth received a prior authorization request from [REDACTED], appellant's provider, for skilled nursing services on December 2, 2024, and a decision was made on December 9, 2024. She stated the request was for 1 SNV visit per week with 6 as needed visits per week. There was also a request for 1 MAV visit per week. Dates of service were December 21, 2024, to June 18, 2025. (Testimony). The MH rep stated aid pending has been applied. She stated that the SNV visit and 6 as-needed visits were approved as requested but MassHealth denied the MAV visit due to duplication of services with appellant's current certified group home. (Testimony).

The MH rep testified that the MAP group home can assist appellant in medication administration and provide supervision and cueing for insulin. The MH rep stated appellant is prescribed NovoLog Insulin 3 times a day and has weekly injection of Ozempic. (Testimony; Ex. 4, p. 11). Appellant can self administer with staff supervision and cues during the non SNV days/times. (Testimony; Ex. 4, p. 19). The MH rep noted that in the Guidelines for Medical Necessity Determination for Home Health Services, under Non coverage, MassHealth does not consider home health services to be medically necessary under certain circumstances. Examples of such circumstances include, but are not limited to, the following: 1) the service replicates concurrent services provided in a different setting with similar treatment, goals, plans and therapeutic modalities and 2) the service replicates concurrent services provided by a different provider in the same setting with similar goals, plans and therapeutic modalities. (Ex. 4, p. 31).

The appeal rep asked the MH rep what MAV meant. She was told it was medication administration visit. The appeal rep stated the group home is "not on top of it as described" by the MH rep. (Testimony). She stated the group home monitors appellant's filling of his pill box but they do not take responsibility for monitoring appellant's insulin intake. The appeal rep stated appellant understands the group home is available to assist with his insulin but he "feels that is inaccurate." (Testimony). She stated she feels the group home is incapable of assisting with the insulin and while they may be "med certified," she feels the group home does not know how to do the insulin and appellant needs a nurse to help him. (Testimony). I asked the MH rep how the group home is responsible for the insulin administration and she responded that during the prior authorization review period, the matter was deferred back to the provider, [REDACTED]. MassHealth asked the provider if appellant was taking insulin 3 times a

day but there was only 1 MAV visit a week, how is appellant managing his insulin injection on the other two days? The provider responded that the group home supervises and cues appellant in managing his insulin intake. (Testimony; Ex. 4, p. 19). The appeal rep testified appellant can give himself his insulin shot. She stated she believed the problem is consistency and appellant paying attention to his blood sugar. She stated if a nurse can visit two times a week, that would motivate appellant. (Testimony).

Findings of Fact

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

1. Appellant is a male in his early thirties who is alert and oriented and diagnosed with major depressive disorder and Type II diabetes without complications. (Testimony).
2. Appellant resides in a twenty-four-hour certified medication administration program (MAP) group home. (Testimony).
3. The MAP group home can assist appellant in medication administration and provide supervision and cueing for insulin. (Testimony).
4. Appellant is prescribed NovoLog Insulin 3 times a day and has weekly injection of Ozempic. (Testimony; Ex. 4, p. 11).
5. Appellant is able to self administer with staff supervision and cues during the non SNV days/times. (Testimony; Ex. 4, p. 19).
6. MassHealth received a prior authorization request from [REDACTED], appellant's provider, for skilled nursing services on December 2, 2024 and a decision was made on December 9, 2024. (Testimony).
7. The request was for 1 SNV visit per week with 6 as needed visits per week. There was also a request for 1 MAV visit per week. (Testimony).
8. Aid pending has been applied. (Ex. 5).
9. The SNV visit and 6 as needed visits were approved as requested but MassHealth denied the MAV visit due to duplication of services with appellant's current certified group home. (Testimony).
10. The group home supervises and cues appellant in managing his insulin intake when the MAV visit is not present. (Testimony; Ex. 4, p. 19).

11. Appellant is capable of giving himself his insulin shot. (Appeal Rep Testimony).

Analysis and Conclusions of Law

Regulations at 130 CMR 403.410 address prior-authorization requirements for home health services:

(A) General Terms.

(1) Prior authorization must be obtained from the MassHealth agency or its designee as a prerequisite to receipt of home health services as described in 130 CMR 403.410(C) and 403.410(F), below. For all other home health services prior authorization must be obtained from the MassHealth agency or its designee as a prerequisite to payment after certain limits are reached, as described in 130 CMR 403.410. Without such prior authorization, the MassHealth agency will not pay providers for these services.

(2) Prior authorization determines only the medical necessity of the authorized service, and does not establish or waive any other prerequisites for payment such as member eligibility or resort to health insurance payment.

(3) Approvals for prior authorization specify the number of hours, visits, or units for each service that are medically necessary and payable each calendar week and the duration of

For members not enrolled in a managed care entity, prior authorization for any and all home health skilled nursing services is required whenever the services provided exceed one or more of the following PA requirements:

- (a) more than 30 intermittent skilled nursing visits in a 90 day period;
- (b) more than 240 home health aide units in a 90 day period; or
- (c) more than 30 medication administration visits in a 90 day period.

Regulations at 130 CMR 403.402 define the following terms:

Medication Administration Visit – a nursing visit for the sole purpose of administration of medications where the targeted nursing assessment is medication administration and patient response only, and when the member is unable to perform the task due to impaired physical, cognitive, behavioral, and/or emotional issues, no able caregiver is present, the member has a history of failed medication compliance resulting in a documented exacerbation of the member's condition, and/or the task including the route of administration of

medication requires a licensed nurse to provide the service. A medication administration visit may include administration of oral, intramuscular, and/or subcutaneous medication or administration of medications other than oral, intramuscular and/or subcutaneous medication, but does not include intravenous administration.

Nursing Services – the assessment, planning, intervention, and evaluation of goal-oriented nursing care that requires specialized knowledge and skills acquired under the established curriculum of a school of nursing approved by a board of registration in nursing. Such services include only those services that require the skills of a nurse.

Skilled Nursing Visit – a nursing visit that is necessary to provide targeted skilled nursing assessment for a specific member medical need, and/or discrete procedures and/or treatments, typically for less than two consecutive hours, and limited to the time required to perform those duties.

403.409 Clinical Eligibility Criteria for Home Health Services

130 CMR 403.409: Clinical Eligibility Criteria for Home Health Services

...

(C) Medical Necessity Requirement. In accordance with 130 CMR 450.204: Medical Necessity, and MassHealth Guidelines for Medical Necessity Determination for Home Health Services, the MassHealth agency pays for only those home health services that are medically necessary. Home health services are not to be used for homemaker, respite, or heavy cleaning or household repair.

(D) Availability of Other Caregivers. When a family member or other caregiver is providing services, including nursing services, that adequately meet the member's needs, it is not medically necessary for the home health agency to provide such services.

(E) Least Costly Form of Care. The MassHealth agency pays for home health agency services only when services are no more costly than medically comparable care in an appropriate institution and the least costly form of comparable care available in the community.

Appellant has the burden "to demonstrate the invalidity of the administrative determination." Andrews v. Division of Medical Assistance, 68 Mass. App. Ct. 228 (2007). Moreover, "[p]roof by a preponderance of the evidence is the standard generally applicable to administrative proceedings." Craven v. State Ethics Comm'n, 390 Mass. 191, 200 (1983).

Appellant's home health services provider submitted a request to MassHealth for 1 SNV visit per week with 6 as needed visits per week. There was also a request for 1 MAV visit per week.

MassHealth approved the SNV visit and 6 as needed visits as requested but MassHealth denied the MAV visit due to duplication of services with appellant's current certified group home. At issue is the denial of the requested 1 MAV per week.

MassHealth cited appellant's provider, [REDACTED], who informed MassHealth appellant can inject himself 3 times a day with his insulin shot with cueing and assistance from the MAP group home where appellant resides. The appeal rep testified that appellant understands the group home is available to assist him with his insulin but he feels that is inaccurate. The appeal rep stated she "feels the group home does not know how to do insulin and the appellant needs a nurse to help him." However, the appellant's group home confirms that he can do this independently with supervision from staff. I therefore find the evidence supports appellant can inject himself 3 times a day with his insulin with cueing and supervision from the group home. Accordingly, the 1 MAV visit per week is duplicative. As there is a less-costly alternative available, the requested time is not medically necessary, pursuant to MassHealth's regulations.

Pursuant to the facts in the hearing record, MassHealth's modification of the home health services is supported by the above regulations. This appeal is therefore denied.

Order for MassHealth

Remove aid pending protection and implement the services authorized by MassHealth for this PA period.

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.

Thomas Doyle
Hearing Officer
Board of Hearings

cc: Appellant Representative: [REDACTED]
[REDACTED]

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