

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2501566
<b>Decision Date:</b>	5/2/2025	<b>Hearing Date:</b>	03/31/2025
<b>Hearing Officer:</b>	Alexandra Shube		

**Appearances for Appellant:**

*Via telephone:*



**Appearances for Fallon ACO:**


*Via telephone:*

Kay George, RN, Appeals Nurse  
Dr. Carl Cameron, MD, VP & Sr. Medical Dir.  
Noah Jones, Appeals Coordinator  
Seth Kindel, Appeals Coordinator



*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>	ACO – Denial of Internal Appeal; Prior Authorization
<b>Decision Date:</b>	5/2/2025	<b>Hearing Date:</b>	03/31/2025
<b>MassHealth's Rep.:</b>	Kay George, RN;	<b>Appellant's Rep.:</b>	
<b>Hearing Location:</b>	Quincy Harbor South Remote	<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 notice dated January 9, 2025, Fallon Health – Atrius Health Care Collaborative (hereinafter, Fallon or ACO), a MassHealth accountable care organization (ACO), informed the appellant that it had denied his internal appeal of a prior authorization request for thermal destruction of the intraosseous basivertebral nerve (CPT 64628 – Intrasept Procedure) because MassHealth Physician Manual Subchapter 6 criteria have not been met as the requested code 64628 is nonpayable for MassHealth. (Exhibit 1). The appellant filed this appeal in a timely manner on January 27, 2025 (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)).<sup>1</sup>

This hearing was originally scheduled for March 12, 2025, but at the request of the appellant, it was rescheduled to the current date.

---

<sup>1</sup> 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.

## **Action Taken by ACO**

Fallon denied the appellant's prior authorization request for thermal destruction of the intraosseous basivertebral nerve (CPT 64628 – Intracept Procedure).

## **Issue**

The appeal issue is whether MassHealth's agent or designee, Fallon, was correct in denying the appellant's internal appeal of a prior authorization request for thermal destruction of the intraosseous basivertebral nerve (CPT 64628 – Intracept Procedure) because it is a nonpayable code pursuant to MassHealth Physician Manual Subchapter 6.

## **Summary of Evidence**

All parties appeared at hearing via telephone. Fallon was represented by its appeals nurse, vice president and senior medical director of clinical management, and two appeal coordinators. The appellant appeared at hearing with his requesting physician and the patient access case manager from Relieva Medsystems, Inc..

Fallon testified that on November 27, 2024, it received a prior authorization request from the appellant's doctor for thermal destruction of the intraosseous basivertebral nerve for the first two vertebral bodies with imaging guidance, lumbar or sacral (CPT 64628 – Intracept Procedure). The dates of service were from November 27, 2024 to May 27, 2025. Pursuant to MassHealth Physician Manual Subchapter 6, the requested code 64628 is a nonpayable Current Procedural Terminology (CPT) code. MassHealth does not pay for services listed under Section 602 (Nonpayable CPT Codes) of the MassHealth Physician Manual.

This hearing officer questioned Fallon about the following language in Fallon's January 9, 2025 notice:

MassHealth does not have clinical coverage criteria for intraosseous basivertebral nerve destruction, however this procedure is listed as non-payable when performed in an acute outpatient hospital setting. Based upon the furnished documentation, the member meets criteria for intraosseous basivertebral nerve ablation if done in an inpatient setting. However, this request cannot be covered as it has been requested for an acute outpatient hospital setting and is not covered per MassHealth guidelines.

Fallon's medical director found this statement to be unusual and inaccurate. He explained that the requested procedure is an outpatient procedure that usually takes about an hour to complete. It

would not be done as an inpatient procedure and he is not sure why it was written that way in the notice. He clarified that the requested procedure code is nonpayable. He did not believe there was a similar procedure that could be coded differently for approval purposes. It is a very specific procedure and it has been controversial over the last few years. Some studies on the procedure have questionable methodology, including small numbers of people and the amount of improvement. Fallon, as MassHealth's insurer here, is restricted by MassHealth's regulations and guidelines. As of March 31, 2025, MassHealth has not moved the requested code to its list of payable procedures.

Prior to hearing, the appellant provided documentation on studies and the procedure's FDA approval. The appellant testified to the pain he has been dealing with for over seven years which has a huge impact on his quality of life on a daily basis. He has tried many different options for pain management, none of which have provided consistent, lasting relief. He and his doctor believe that the requested procedure is the next best step for him. His doctor explained that many major medical societies support this procedure, which is safe, efficacious, durable, and reproducible for appropriately selected patients.

## **Findings of Fact**

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

1. The appellant is an adult under the age of 65 (Exhibit 4).
2. The appellant is enrolled in the Fallon Health – Atrius Health Care Collaborative, a MassHealth accountable care organization (Testimony and Exhibit 1).
3. On November 27, 2024, the appellant's provider submitted a prior authorization request for thermal destruction of the intraosseous basivertebral nerve for the first two vertebral bodies with imaging guidance, lumbar or sacral (CPT 64628 – Intracept Procedure) (Testimony and Exhibits 1 and 7).
4. On January 9, 2025, Fallon denied the request because MassHealth Physician Manual Subchapter 6 criteria have not been met as code 64628 is non-payable for MassHealth (Testimony and Exhibit 1).
5. On January 27, 2025, the appellant timely appealed the denial to the Board of Hearings (Exhibit 2).
6. Code 64628 is listed under Section 602 (Nonpayable CPT Codes) of the MassHealth Physician Manual (Testimony and Exhibit 7).

## 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 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...

The appellant exhausted the internal appeal process offered through his ACO, and thus is entitled to a fair hearing pursuant to the above regulations. As MassHealth's agent, Fallon is required to follow MassHealth rules and regulations pertaining to a member's care.

According to 130 CMR 433.451(B)(4), the MassHealth agency does not pay for services billed under the codes listed in Subchapter 6 of the *Physician Manual* as not payable. According to Subchapter 6 of the *Physician Manual*

MassHealth pays for all medicine, radiology, surgery, and anesthesia CPT codes in effect at the time of service, subject to all conditions and limitations described in MassHealth regulations at 130 CMR 433.000: Physician Services and 130 CMR 450.000: Administrative and Billing Regulations, **except for those codes listed in Section 602 of this subchapter...** (Emphasis added).

Section 602 (Nonpayable CPT Codes) states that MassHealth "does *not* pay for services billed under the following codes" and lists code 64628, among others.

While the appellant and his representatives provided credible testimony, the requested code 64628 simply is not a covered code and MassHealth will not pay for services billed under that code. For this reason, 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

cc: Appellant Representative: [REDACTED]  
Appellant Representative: [REDACTED]  
MassHealth Representative: Fallon Health, Member Appeals and Grievances, 1 Mercantile Street, Suite 400, Worcester, MA 01608