

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	DENIED	Appeal Number:	2501978
Decision Date:	4/30/2025	Hearing Date:	02/28/2025
Hearing Officer:	Kenneth Brodzinski		

Appearance for Appellant:



Appearance for MassHealth:

Lisa Russell, 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 - HHA
Decision Date:	4/30/2025	Hearing Date:	02/28/2025
MassHealth's Rep.:	Lisa Russell, RN	Appellant's Rep.:	Pro se
Hearing Location:	Quincy	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 January 21, 2025, MassHealth notified Appellant that her request for prior authorization for Skilled Nursing Visits (SNV) had been modified ([Exhibit A](#)). The Appellant timely appealed the decision on January 31, 2025. Appellant received "Aid Pending" pending status forestalling the modification pending the outcome of this appeal (130 CMR 610.015(B); [Exhibit A](#)). Modification of a prior authorization request constitutes valid grounds for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth modified Appellant's request for SNV services.

Issue

The issue on appeal is whether MassHealth properly applied controlling regulation(s) to accurate facts when it modified Appellant's request for prior authorization for SNV services.

Summary of Evidence

Both parties appeared by telephone. MassHealth submitted a packet of documentation which includes *inter alia* copies of the PA request and SNV notes (Exhibit B).

The MassHealth representative, a registered nurse who works for Optum, the contractor who makes SNV decisions for MassHealth, testified that Appellant's PA request, submitted by Appellant's provider home agency, seeks approval for 1 SNV and 1 medication administration visit (MAV) per week.

MassHealth modified the request by approving 1 SNV visit per week and 6 PRN (as needed visits) for the period from February 2, 2025 to June 21, 2025. MassHealth denied the requested 1 MAV per week on the grounds that it was not medically necessary.

The MassHealth representative testified that Appellant is in her late [REDACTED] with diagnoses of bipolar and depression (Exhibit B, page 13). Appellant resides in an [REDACTED] community with a friend. She has been prescribed 7 medications, some of which are taken twice per day. The medications are filled weekly into a medication box and Appellant is compliant with taking her medications (Exhibit B, pages 21-30). According to the documentation filed with the request, Appellant has had no ER or hospital visits in the past year; her mood is at baseline, she is currently prescribed no psychiatric medication, she is not homebound, and she can leave her home and access the community independently (Exhibit B, pages 11-12). The MassHealth representative testified that given Appellant's medication compliance, the fact that her pills are filled once per week in a box, her degree of functional independence and the fact that she is no longer taking any psychiatric medications, there is no medical necessity for a separate weekly MAV since the medications can be filled in the medication box during the 1 SNV.

Appellant appeared on her own behalf accompanied by two nurses from her providing home health agency. Appellant stated that she would prefer to be visited by a nurse twice per week instead of once. Appellant stated that it helps her to maintain her motivation. The nurses testified that Appellant gets frustrated easily and tends to be manic. They reported that Appellant has a history of lithium toxicity due to not taking her medications properly. They wish to continue to visit Appellant twice per week to maintain consistency and avoid any decompensation.

In response, the MassHealth representative reiterated that Appellant is doing well mentally, evidenced by the fact that she is no longer being prescribed psychiatric medications. She also noted that she has been approved for 6 PRN visits which can be used at anytime if any difficulties are encountered with the change in visits. The MassHealth representative noted that this is a wean and if any sustained decompensation is encountered the matter can be documented and addressed if and when it occurs.

Appellant and the nurses testified that Appellant has just started seeing a new mental health provider and may be prescribed psychiatric medications in the near future. Appellant also noted that she is taking Neurontin for her leg.

Findings of Fact

Based on a preponderance of the evidence, this record supports the following findings:

1. Appellant's PA request, submitted by Appellant's provider home agency, seeks approval for 1 SNV and 1 medication administration visit (MAV) per week.
2. MassHealth modified the request by approving 1 SNV visit per week and 6 PRN (as needed visits) for the period from February 2, 2025 to June 21, 2025.
3. MassHealth denied the requested 1 MAV per week on the grounds that it was not medically necessary.
4. Appellant is in her late [REDACTED] with diagnoses of bi-polar and depression (Exhibit B, page 13).
5. Appellant resides in an [REDACTED] community with a friend.
6. Appellant has been prescribed 7 medications, some of which are taken twice per day.
7. Currently, Appellant has not been prescribed any psychiatric medication.
8. Appellant's medications are filled weekly into a medication box and Appellant is compliant with taking her medications (Exhibit B, pages 21-30).
9. Appellant has had no ER or hospital visits in the past year; her mood is at baseline, she is currently prescribed no psychiatric medication, she is not homebound, and she can leave her home and access the community independently (Exhibit B, pages 11-12).
10. Appellant has started seeing a new mental health provider.

Analysis and Conclusions of Law

The party appealing an administrative decision bears the burden of demonstrating the decision's invalidity (*Merisme v. Board of Appeals of Motor Vehicle Liability Policies and Bonds*, 27 Mass. App. Ct. 470, 474 (1989)).

Pursuant to 130 CMR 450.204 (A), MassHealth will not pay a provider for services that are not medically necessary. 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 MassHealth. Services that are less costly to MassHealth include, but are not limited to, health care reasonably known by the provider, or identified by MassHealth 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.

Regulation 130 CMR 403.413 (B) Skilled Nursing and Home Health Aide Services Authorized Pursuant to Skilled Nursing Services for MassHealth Members Not Enrolled in a Managed Care Entity:

(1) The home health agency must obtain prior authorization for the provision of skilled nursing services beyond the amounts set forth in 130 CMR 403.413(B)(6). Prior authorization is also required for the provision of home health aide services provided pursuant to skilled nursing services beyond the amount set forth in 130 CMR 403.413(B)(6)(c). See 130 CMR 403.413(C) for prior authorization requirements relative to CSN services. See 130 CMR 403.413(D) for prior authorization requirements relative to home health therapy services. See 130 CMR 403.420 (C) for service limitations and 403.413 (F) for prior authorization requirements of nursing provided to MassHealth CarePlus members.

(2) Prior authorization is required for skilled nursing and related home health aide services when payment has been discontinued by any other third-party payer, including Medicare, once the member has received nursing services and related home health aide services, including such services paid by any such third-party payer, beyond the amounts set forth in 130 CMR 403.413(B)(6).

(3) To obtain prior authorization for skilled nursing services or home health aides services provided pursuant to skilled nursing services, the home health agency must submit to the MassHealth agency or its designee written physician's orders that identify the member's admitting diagnosis, frequency, and, as applicable, duration of nursing services, and a

(4) If authorized services need to be adjusted because the member's medical needs have changed, the home health agency must submit an adjustment request to the MassHealth agency or its designee.

(5) The home health agency must complete the Request and Justification for Skilled Nursing and Home Health Aide Services Form in accordance with 130 CMR 403.413(B)(1) and 403.420 and 403.421, as applicable. This form must be submitted to the MassHealth agency or its designee with all prior authorization requests for skilled nursing or home health aide services provided pursuant to such nursing services.

(6) PA 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; or

(b) more than 240 home health aide units in a 90 day period.

(7) Any verbal request for changes in service authorization must be followed up in writing to the MassHealth agency or its designee within two weeks of the date of the verbal request.

The guidelines for medical necessity review, section 1c, state:

Administration of oral, eye, ear and topical medication or supervision of self-administered medication does not require the skills of a licensed nurse unless the complexity of the condition(s) and/or nature of the medication(s) require the skilled observation and assessment of a licensed nurse.

On this record, Appellant has not met her burden of demonstrating that the agency's action is invalid. This record shows that Appellant is stable, well-functioning, and compliant with taking her medications from a pre-filled medication box. The box is filled once per week, and this can be performed during the approved weekly SNV visit. There is nothing in this record to indicate that Appellant requires a nurse to visit her a second time during the week in order for Appellant to continue to successfully do what she does the other six days a week without a visit from a nurse. However, should this wean prove to be problematic in fact, and if psychiatric medications are prescribed in the future and non-compliance is documented, Appellant may at

that time seek an adjustment based on changed circumstances pursuant to the above-cited 130 CMR 403.413 (B)(4).

On this record, there is no basis in fact and/or law to overturn MassHealth's determination. Accordingly, the appeal is DENIED.

Order for MassHealth

Remove Aid Pending and proceed with action of subject notice.

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.

Kenneth Brodzinski
Hearing Officer
Board of Hearings

cc:

[REDACTED]

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