

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2503625
Decision Date:	5/21/2025	Hearing Date:	4/1/2025
Hearing Officer:	Cynthia Kopka		

Appearance for Appellant:



Appearances for MassHealth:

Nelly Rodriguez, Optum
Susan Lebreux, Optum



*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:	5/21/2025	Hearing Date:	4/1/2025
MassHealth's Reps.:	Nelly Rodriguez, Susan Lebreux	Appellant's Rep.:	Pro se
Hearing Location:	Quincy (remote)	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

By notice dated February 28, 2025, MassHealth modified Appellant's request for prior approval of home health services. Exhibit 1. Appellant filed this appeal in a timely manner on March 5, 2025 and was entitled to retain the previous level of benefits pending the outcome of the hearing. Exhibit 2. 130 CMR 610.015(B), 130 CMR 610.036. Challenging the modification of assistance is a valid basis for appeal. 130 CMR 610.032.

Action Taken by MassHealth

MassHealth modified Appellant's request for prior approval of home health services.

Issue

The appeal issue is whether MassHealth was correct in modifying Appellant's prior authorization request for home health services.

Summary of Evidence

A clinical appeals reviewer represented MassHealth at hearing by phone and submitted records in support. Exhibit 4. Appellant's representative appeared by phone. A summary of testimony and documents follows.

On February 26, 2025, Appellant's home health care agency (HHA) submitted to MassHealth a prior authorization (PA) request for 1 skilled nursing visit (SNV) per week and 1 medication administration visit (MAV) per week. On February 28, 2025, MassHealth determined based on the records submitted that Appellant did not establish the medical necessity of the services required. MassHealth approved 1 SNV visit per week and denied the MAV. MassHealth approved three as-needed (or "PRN") visits during the PA period of March 2, 2025 through June 10, 2025. Exhibit 1. Appellant was entitled to receive the previous level of benefits pending the outcome of the hearing per 130 CMR 610.036, which was 1 SNV and 1 MAV per week.

Appellant is in his [REDACTED] with a medical history including severe major depressive disorder (MDD) with psychotic symptoms and alcohol abuse. Exhibit 4 at 7, 11. Appellant is not homebound. *Id.* at 7, 11-13. During the certification period, Appellant did not experience any hospitalizations, emergency room visits, or psychiatric emergency services. Nursing notes provided did not indicate any medical or nonclinical issues, and Appellant's vital signs were all within normal limits. *Id.* at 14-19. The MassHealth representative noted that Appellant's nursing visits occur between 8:00 AM and 9:00 AM two days per week. Appellant is taking both morning and evening medications. The nursing notes did not indicate missed doses or noncompliance with any prefilled medications. The notes show that Appellant is alert and oriented x3, has impaired short term memory at baseline, and did not indicate any exacerbations. *Id.* Appellant is described on one occasion as having a disheveled but appropriate appearance, making eye contact, disengaged, friendly and cooperative with ideas of reference. *Id.* at 16. Appellant reported no problems with his mental status. *Id.* The MassHealth representative testified that based on the notes, Appellant appears stable with no exacerbation of diagnoses, and no signs or symptoms of decompensation. Therefore, MassHealth continued a slow wean of Appellant's nursing visits from two visits to one visit per week to promote continued independence. The MassHealth representative testified that Appellant's HHA has 3 PRN visits available to use and can expedite an authorization to increase SNVs or MAVs if Appellant shows noncompliance or decompensates. MassHealth relied upon the Guidelines for Medical Necessity Determination for Home Health Services Section 2(A)(3)(c) and argued that the notes submitted do not indicate concerns regarding medication effectiveness or compliance on non-nursing times and during visits.

Appellant's representative testified that Appellant has been stable and the HHA has been weaning Appellant down. In August 2023, Appellant began care with his current HHA with daily nursing visits. In the summer of 2024, the HHA slowly reduced Appellant's visits to five per week, then three per week, then finally two visits (1 SNV and 1 MAV) per week, where Appellant is now. Appellant has remained stable. Nurses go in to prefill Appellant's medications and assess his status.

Appellant's representative testified that two visits per week are sufficient to keep Appellant stable, but reducing to one visit per week would not be in Appellant's best interest. Appellant is forgetful and was not managing his medications properly before visiting nursing services were placed. Appellant is currently on eight medications including Seroquel, an antipsychotic that requires continued monitoring. Appellant's representative did not foresee a time when one visit per week would be successful. Appellant is seen on Mondays and Thursdays with no more than four days in between visits.

The MassHealth representative testified that Appellant has succeeded with each wean of services. Appellant's representative testified that a one visit per week trial has not been done yet at this time. Appellant's representative argued that one visit per week makes it harder to assess mental status. If there is a sudden mental status change, the HHA may not observe it for several days. Appellant's representative declined to submit additional documentation.

Findings of Fact

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

1. In August 2023, Appellant began care with his current HHA with daily nursing visits. In the summer of 2024, the HHA slowly reduced Appellant's visits to five per week, then three per week, then finally two visits (1 SNV and 1 MAV) per week.
2. On February 26, 2025, Appellant's HHA submitted to MassHealth a PA request for 1 SNV and 1 MAV per week.
3. On February 28, 2025, MassHealth approved 1 SNV visit per week and denied the MAV. MassHealth approved three PRN visits during the PA period of March 2, 2025 through June 10, 2025. Exhibit 1.
4. Appellant filed this appeal in a timely manner on March 5, 2025 and was entitled to retain the previous level of benefits pending the outcome of the hearing. Exhibit 2.
5. Appellant is in his [REDACTED] with a medical history including severe MDD with psychotic symptoms and alcohol abuse. Appellant is not homebound. Exhibit 4 at 7, 11.
6. During the certification period, Appellant did not experience any hospitalizations, emergency room visits, or psychiatric emergency services. Nursing notes provided did not indicate any medical or nonclinical issues, and Appellant's vital signs were all within normal limits. *Id.* at 14-19.

7. Appellant's current SNV and MAV occur in the morning. Appellant is taking both morning and evening medications. The nursing notes did not indicate missed doses or noncompliance with any prefilled medications. *Id.* at 14-19.
8. The nursing notes indicated that Appellant is alert and oriented x3 and has impaired short term memory at baseline without exacerbation. Appellant reported no problems with his mental status. *Id.*

Analysis and Conclusions of Law

At issue in this appeal is MassHealth's denial of MAV visits. MassHealth approved one SNV per week to continue a slow wean of Appellant's visits to promote independence. Appellant's representative disputes that one SNV visit per week is sufficient given Appellant's number and type of medications, his need for mental status assessments, and his prior history of noncompliance.

MassHealth requires prior authorization for the provision of skilled nursing services and home health aide services provided pursuant to skilled nursing services if the number of visits or hours exceed limits set forth by regulation. 130 CMR 403.410. MassHealth only pays for home health services on an intermittent or part-time basis. 130 CMR 403.424. In order to qualify for home health services, a member must be able to be safely maintained in the community. 130 CMR 403.409(F). According to 130 CMR 403.409(C), MassHealth only pays for home health services that are medically necessary. Pursuant to 130 CMR 450.204(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, or 517.007.

See also 130 CMR 403.409(E) (MassHealth "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").

The regulations regarding nursing services are set forth in 130 CMR 403.415 (emphasis added):

(A) Conditions of Payment. Nursing services are payable only if all of the following conditions are met:

- (1) there is a clearly identifiable, specific medical need for nursing services;
- (2) the services are ordered by the member's physician or ordering non-physician practitioner and are included in the plan of care;
- (3) the services require the skills of a registered nurse or of a licensed practical nurse under the supervision of a registered nurse, in accordance with 130 CMR 403.415(B);
- (4) the services are medically necessary to treat an illness or injury in accordance with 130 CMR 403.409(C); and
- (5) prior authorization is obtained where required in compliance with 130 CMR 403.410.

(B) Clinical Criteria.

- (1) A nursing service is a service that must be provided by a registered nurse, or by a licensed practical nurse under the supervision of a registered nurse, to be safe and effective, considering the inherent complexity of the service, the condition of the member, and accepted standards of medical and nursing practice.
- (2) Some services are nursing services on the basis of complexity alone (for example, intravenous and intramuscular injections, or insertion of catheters). However, in some cases, a service that is ordinarily considered unskilled may be considered a nursing service because of the patient's condition. This situation occurs when only a registered nurse or licensed practical nurse can safely and effectively provide the service.
- (3) When a service can be safely and effectively performed (or self-administered) by the average nonmedical person without the direct supervision of a registered or licensed practical nurse, the service is not considered a nursing service, unless there is no one trained, able, and willing to provide it.
- (4) Nursing services for the management and evaluation of a plan of care are medically necessary when only a registered nurse can ensure that essential care is effectively promoting the member's recovery, promoting medical safety, or avoiding deterioration.
- (5) Medical necessity of services is based on the condition of the member at the time the services were ordered, what was, at that time, expected to be appropriate treatment throughout the certification period, and the ongoing condition of the member throughout the course of home care.
- (6) A member's need for nursing care is based solely on his or her unique condition and individual needs, whether the illness or injury is acute, chronic, terminal, stable, or expected to extend over a long period.
- (7) Medication Administration Visit. A nursing visit for the sole purpose of administering medication and where the targeted nursing assessment is medication administration and patient response only may be considered medically necessary 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 of the administration of medication, including the route of administration, 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.

MassHealth's Guidelines for Medical Necessity Determination for Home Health Services ("Guidelines") as provided in MassHealth's submission, Exhibit 4 at 22-33, are based on review of the medical literature and current practices. According to the Guidelines at Section 2(A)(3)(c)(i),

- i. Medication administration services may be considered medically necessary when: 1) medication administration is prescribed to treat a medical or behavioral health condition, 2) a member has no able caregiver present, 3) the task requires the skills of a licensed nurse, and 4) at least one of the following conditions apply.
 - a) The member is unable to perform the task due to impaired physical or cognitive issues, behavioral and/or emotional issues.
 - b) The member has a history of failed medication compliance resulting in a documented exacerbation of the member's condition.

Id. at 25.

Here, MassHealth determined that the requested weekly MAV was not medically necessary, as the clinical record shows that Appellant has been stable with no exacerbation of diagnoses and no signs or symptoms of decompensation. Although Appellant's representative did not dispute Appellant's current stability, Appellant's representative argued that it is not in Appellant's best interest to reduce visits to one SNV per week given his forgetfulness, history of noncompliance, and need for mental status checks in light of heavy medication, such as Seroquel. However, as Appellant takes medications twice per day and only has two weekly nursing visits, he has demonstrated his ability to take medications independently in 12 out of 14 weekly instances with no recent history of noncompliance and no documented exacerbation. MassHealth reasonably argued that Appellant's representative can use PRN visits in the event of a setback, or may expedite a request to increase the weekly visits if anything goes wrong. Without more, Appellant has not demonstrated that MassHealth's decision was made in error.

For these reasons, this appeal is denied.

Order for MassHealth

Remove aid pending and begin the wean down to 1 SNV and 3 PRN visits at the end of the aid

pending 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.

Cynthia Kopka
Hearing Officer
Board of Hearings

cc: [REDACTED]
[REDACTED]

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