Office of Medicaid
BOARD OF HEARINGS

Appellant Name and Address:

[redacted]

Appeal Decision:	Denied	**Appeal Number:**	2503848
Decision Date:	05/06/2025	**Hearing Date:**	04/11/2025
Hearing Officer:	Amy B. Kullar, Esq.		

Appearance for Appellant:

[redacted]

Appearances for MassHealth:

Susan Lebreaux, RN (Optum)
Nelisette Rodriguez, RN (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:	05/06/2025	**Hearing Date:**	04/11/2025
MassHealth's Reps.:	Susan Lebreux, R.N.; Nelisette Rodriguez, R.N.	**Appellant's Rep.:**	[redacted]
Hearing Location:	Quincy Harbor South 1 (Telephone)	**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 March 4, 2025, MassHealth approved the appellant's request for weekly skilled nursing visits and modified the requested medication administration visits. *See* Exhibit 1; 130 CMR 450.204(A)(2). The appellant filed this appeal in a timely manner on March 10, 2025; and his services are protected pending the outcome of this appeal. *See* 130 CMR 610.015(B), 610.036; Exhibit 2. Denial of assistance is valid grounds for appeal. *See* 130 CMR 610.032.

Action Taken by MassHealth

MassHealth denied the requested medication administration visits because they are not medically necessary.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 450.303, in determining that the requested service is not medically necessary for the appellant.

Summary of Evidence

The MassHealth representative, a registered nurse who works for Optum, the contractor which makes the home health services decisions for MassHealth, testified that the appellant's prior authorization request was submitted by Alternative Home Health Care MA (Provider) on February 28, 2025 requesting skilled nursing visits (SNV) 1 per week with 3 SNVs PRN[1] from 3/10/2025 to 6/9/2025, and 1 medication administration visit (MAV) per week from 3/10/2025 to 6/9/2025.[2] On March 4, 2025, MassHealth approved the SNV as requested, 1 visit per week plus 3 SNVs PRN, from 03/10/2025 to 06/09/2025, but did not authorize any MAVs from 3/10/2025 to 6/9/2025.

The MassHealth representative stated that the appellant is an adult under the age of 65, who is a participant in the adult foster care program, and he is not homebound. The appellant receives Medicare and Medicaid benefits[3]. He has a primary caregiver who is "very willing" to provide care. Testimony. He has primary diagnoses of type 2 diabetes mellitus, panic disorder, and major depressive disorder. Testimony and Exhibit 6. The appellant receives 6 daily medications in the morning, 2 daily medications in the afternoon, 1 medication twice a day, 1 medication 3 times a day, an inhaler 2 times a day, and 1 medication PRN daily. His nursing visits take place in the afternoons, between 4:00-5:00PM. The appellant receives insulin daily in the afternoon along with a weekly injection. Testimony.

The MassHealth representative testified that the nursing notes submitted by the appellant's Provider indicate that during the appellant's current certification period, there were no documented hospitalizations, emergency room visits, or psychiatric emergency services utilized by the appellant. Testimony and Exhibit 6 at 18-23. She further stated that the are no communication notes regarding any "non-clinical or medical issues." According to the MassHealth representative, the appellant's recorded vital signs are "within normal limits per the parameters, with no documentation of exacerbation of diagnosis." Testimony. The MassHealth representative then referenced her pre-hearing submission and stated that there is a question within the nursing notes that asks if the patient/family/caregiver can administer the appellant's medications; this question was answered "Yes." Also, in the section of the appellant's medical record that was submitted with the prior authorization request, there is an "Endocrine Assessment" and it states that the injections are recorded as being administered by the appellant. Testimony and Exhibit 6 at 18-23.

The MassHealth representative continued her testimony by stating that the "Summary of

[1] PRN means "as needed."

[2] The appellant is presently receiving 1 SNV per week with 3 SNVs PRN and 1 MAV, as aid pending was applied to this appeal by the Board of Hearings.

[3] Exhibit 4 consists of a printout of the appellant's Medicaid Management Information System (MMIS) account; it indicates that the appellant is a MassHealth Standard recipient. *See* Exhibit 4.

Visits" within the nursing notes also report that [Appellant] is "compliant with pre-poured medications," and that according to the appellant's "Med Planner" there is "no documentation of nursing administering medications." Testimony. Nursing notes do not indicate noncompliance with any medications, nor any documentation of missed doses during non-nursing visit days and times. The MassHealth representative emphasized again that there was no mention of the nurse administering any medications per the notes that were submitted with the PA request. Testimony. The MassHealth representative acknowledged that record shows that the appellant suffers from "anxiety, low self-esteem, and impaired problem-solving skills," but that the appellant is "oriented" and denies "suicidal/homicidal ideation, racing thoughts, or hearing voices," and there is "no documentation in the record of any changes to mental health status, or signs and symptoms of decompensation." Testimony. The nursing notes do not indicate that the appellant is non-compliant with medications and there is no documentation of missed doses during non-nursing visit times. Testimony and Exhibit 6. As a participant in the adult foster care program, the appellant has caregivers available who would be able to contact his Provider should any changes occur with the appellant if he were to no longer receive the MAVs.

The MassHealth representative stated that "after reviewing the documentation, it appeared that the member is stable, with no exacerbation of diagnosis and no signs and symptoms of decompensation and due to his current status, a trial wean was initiated of one skilled nurse visit per week to "foster member medication independence." In addition, the member has a supportive primary caregiver. Testimony. She testified that the appellant's provider can expedite a request for additional MAVs or SNVs if the appellant shows noncompliance or decompensation during the weaning period, and this has not been utilized yet. She stated that as a dual covered Medicare-Medicaid recipient, the appellant is eligible for an automatic medication dispenser that can aid the appellant and his caregivers with medication administration if needed. Testimony.

The MassHealth representative concluded her testimony by referring to page 29 of her prehearing submission, Exhibit 6, which contains the MassHealth medical necessity guidelines for medication administration nursing visits[4], and in closing she then stated: "There appears to be no concerns with [Appellant's] ability to administer his own insulin and oral medication, or the effectiveness and compliance on non-nursing times, and during visits, and [Appellant] has a willing and able caregiver." Testimony.

[4] The MassHealth representative read the MassHealth Medical Necessity Guidelines into the record: "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." Testimony and Exhibit 6 at 29.

The appellant was represented at Fair Hearing by a registered nurse from his Provider; she appeared at the fair hearing telephonically and verified the appellant's identity. The appellant's representative testified that the appellant is seen twice a week by a nurse to "assess for his functional and mental status." Testimony. The appellant's medications are managed by a lockbox; the appellant uses 14 medications in total, with some "high risk medications" along with psychiatric and diabetic medications. Testimony. The appellant's nurse manages the medications by "picking them up and bringing them into the lockbox" and "pre-pours only through the next visit." Testimony. It is the appellant's representative's belief that "the 14 [medications] are a lot to manage as a once a week visit, which is why we have appealed for the twice a week visits." Testimony.

The appellant's representative stated that the appellant continues to require the skilled nursing visits for medication administration from the lockbox and for "assessment of him and his education of his insulin. He's not compliant a lot with the teachings of a nurse as far as his diabetes goes." Furthermore, it is her understanding that the appellant does not live with a caregiver. It is the representative's belief that according to the nurse who sees him on a regular basis, the appellant's primary caregiver is actually not living with the appellant, but the caregiver comes to him for his insulin administration because he's uncomfortable giving it himself. Testimony.

After questioning by the Hearing Officer, the appellant's representative stated that the extra medication administration visit is necessary for the management of the medications. After questioning by the Hearing Officer and discussion among the parties it was agreed that a nurse never administers medications to the appellant; his caregiver administers his medications[5]. Testimony. The appellant's representative concluded her testimony by stating that the appellant has a "knowledge deficit related to his disease process," that he suffers from impaired judgment, and he is not able to manage his 14 medications himself. Testimony.

Findings of Fact

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

1. The appellant is a male adult under the age of 65, who is a participant in the adult foster care program, and he is not homebound. He has primary diagnoses of type 2 diabetes mellitus, panic disorder, and major depressive disorder. Testimony and Exhibit 6.

[5] During this discussion, it was again the testimony of the appellant's representative that the appellant did not live with his caregiver; however, the MassHealth representative interjected at this point and stated that the appellant is a participant in the adult foster care program, and it is a *requirement* of that program that the appellant reside with his caretaker. The appellant's representative then stated that the nurse must have made an error when he recorded that in his notes and that she would clear that up. Testimony.

2. On February 28, 2025, the appellant's prior authorization (PA) request was submitted by Alternative Health Care MA (Provider). The PA requested skilled nursing visits (SNV) 1 time per week with 3 SNVs PRN, and 1 medication administration visit (MAV) from 03/10/2025 to 06/09/2025. Testimony and Exhibit 6.

3. On March 4, 2025, MassHealth approved the SNV as requested, 1 visit per week plus 3 PRN SNVs, from 03/10/2025 to 06/09/2025, but did not authorize any MAVs. Testimony; Exhibits 1 & 6.

4. On March 10, 2025, the appellant filed a timely request for a hearing with the Board of Hearings. Exhibit 2.

5. On April 11, 2025, a fair hearing was held before the Board of Hearings. Exhibit 3.

6. According to the nurses' notes included with the PA request, the appellant is compliant with medications and there is no documentation of "missed doses during non-nursing visit time;" he reports "anxiety, low self-esteem, and impaired problem-solving skills," but the appellant is "oriented" and he denies "suicidal/homicidal ideation, racing thoughts, or hearing voices," and has had "no recent hospitalizations." Testimony and Exhibit 6.

7. The appellant is able to self-administer insulin and oral medication from a pre-filled planner, and there are no documented concerns with medication effectiveness and non-compliance on non-nursing times, nor documentation of exacerbation of the appellant's condition due to any noncompliance. Testimony.

8. The appellant has a willing and able caregiver who administers his medications during non-nursing times. Testimony.

Analysis and Conclusions of Law

MassHealth pays for home health services for eligible members, including nursing, home health aide, and home therapy services. (130 CMR 403.000.) Home health services must be prescribed and provided in accordance with a plan of care that certifies the medical necessity of the services requested. (130 CMR 403.409(A).) Often, prior authorization is required. (130 CMR 403.410.) Any service requested of MassHealth must be "medically necessary":

> (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: *Potential Sources of Health Care*, or 517.007: *Utilization of Potential Benefits*.

(130 CMR 450.204(A).)

The home health regulations also include reference to the medical necessity requirements. These clinical eligibility criteria note that it is not medically necessary for a home health agency to provide services when those services are provided by another caregiver.

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.

(130 CMR 403.409.) (Emphasis added.)

MassHealth defines what constitutes a Medication Administration Visit under the regulations:

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.

(130 CMR 403.402 (emphasis added))

The appellant has the burden "to demonstrate the invalidity of the administrative determination." See *Andrews vs. Division of Medical Assistance,* 68 Mass. App. Ct. 228, 231 (2006). Moreover, the burden is on the appealing party to demonstrate the invalidity of the administrative determination. See *Fisch v. Board of Registration in Med.*, 437 Mass. 128, 131 (2002); *Faith Assembly of God of S. Dennis & Hyannis, Inc. v. State Bldg. Code Comm'n.*, 11 Mass. App. Ct. 333, 334 (1981); *Haverhill Mun. Hosp. v. Commissioner of the Div. of Med. Assistance*, 45 Mass. App. Ct. 386, 390 (1998).

On February 28, 2025, the appellant's PA request was submitted by Alternative Home Health Care MA (Provider). The PA requested skilled nursing visits (SNV) 1 time per week with 3 SNV PRN and 1 MAV per week from 03/10/2025 to 06/09/2025. Testimony; Exhibit 6. On March 4, 2025, MassHealth approved the SNVs as requested but modified the request for MAVs to zero visits per week from 03/10/2025 to 06/09/2025**.** The appellant appealed, arguing that he requires 1 MAV per week, instead of the zero MAVs approved by MassHealth.

According to the nurses' notes included with the PA request, the appellant is compliant with medications, and there is no documentation of "missed doses during non-nursing visit time;" and while the appellant reports "anxiety, low self-esteem, and impaired problem-solving skills," he is also "oriented" and he denies "suicidal/homicidal ideation, racing thoughts, or hearing voices," and has "no recent hospitalizations." MassHealth approved zero MAVs per week, but approved 1 SNV with 3 SNV PRN, for the purpose of allowing the appellant to wean from the daily nursing visits to foster medication independence, and because the appellant has a supportive primary caregiver with whom he resides.

The appellant's representative asserted that the appellant needs the weekly MAV because the appellant has "impaired judgment, and he is not able to manage his 14 medications himself." There was no evidence in the written record that indicates that this is currently true. Rather, the nursing notes that were submitted indicate that the appellant is presently compliant with medication self-administration during non-nursing visit times, and has shown no signs of decompensation or change in his condition. The record and testimony show that the appellant self-administers his daily insulin and the appellant's caregiver administers the appellant's daily medications.

Therefore, there is insufficient evidence in the hearing record to show that MAVs are medically necessary for the appellant. The appellant resides with a caregiver, who is able and willing to administer the appellant's medications during non-nursing times. The regulations do not allow for Medication Administration Visits where an able caregiver is present. The appellant has not shown how MassHealth erred by determining that his needs can be met with 1 SNV per week with 3 PRN.

Accordingly, MassHealth's modification is supported by the material facts in the hearing record and the above regulations. This appeal is therefore DENIED.

Order for MassHealth

Remove aid pending.

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.

Amy B. Kullar, Esq.
Hearing Officer
Board of Hearings

[redacted]

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