

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2507981
<b>Decision Date:</b>	07/29/2025	<b>Hearing Date:</b>	06/24/2025
<b>Hearing Officer:</b>	Patrick Grogan	<b>Record Open to:</b>	N/A

**Appearance for Appellant:**



**Appearances for MassHealth:**

Nelisette Rodriguez, RN, Kelsey Hunt

**Interpreter:**

N/A



*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>	Prior Authorization, Home Health Services
<b>Decision Date:</b>	07/29/2025	<b>Hearing Date:</b>	6/24/2025
<b>MassHealth's Reps.:</b>	[REDACTED]	<b>Appellant's Rep.:</b>	Jeaninne Scarfo, RN
<b>Hearing Location:</b>	Remote (Tel)	<b>Aid Pending:</b>	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 May 16, 2025, MassHealth informed the Appellant that it modified the Prior Authorization (PA) request for Home Health Services (HHS) (130 CMR 450.204; Exhibit 1). A timely appeal was filed on May 23, 2025 by the Appellant and his home health services are protected at the current levels pending the outcome of this appeal. (130 CMR 610.015; Exhibit 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 HHS<sup>1</sup> services.

### Issue

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<sup>1</sup> 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).

Did MassHealth correctly modify the Appellant's prior authorization request for HHS hours due to a lack of medical necessity?

## Summary of Evidence

The MassHealth representative, a registered nurse who works for Optum, the contractor who makes the home health services decisions for MassHealth, testified that the Appellant's prior authorization request was submitted by [REDACTED] (Provider) seeking 1 skilled nursing visit (SNV) 1 time per week plus 4 medication administration visits (MAV) per week from May 24, 2025 through August 23, 2025 with 3 PRN visits.<sup>2</sup> The Appellant is an adult who lives independently in the community. He is not homebound. He has diagnoses that include chronic diastolic (congestive) heart failure as well as major depressive disorder, (Testimony, Exhibit 5).

On May 16, 2025, MassHealth authorized skilled nursing visits (SNV) at 1 visit per week, as requested, 3 PRN visits, as requested, and medication administration visits (MAV) 3 times per week, from May 24, 2025 through August 23, 2025. (Testimony, Exhibit 1) The MassHealth representative testified that SNVs are authorized only if they are medically necessary. MassHealth maintained that a SNV is a skilled need provided only by a registered or licensed nurse and requiring specialized knowledge and skills acquired from a board-approved school of nursing. MAVs are nursing visits for the purpose of assisting a member to set up and administer medications. MassHealth indicated that after review of the documentation included with the request, it was determined the evidence does not demonstrate medical necessity for the requested frequency of nursing visits.

The MassHealth representative testified that, according to the documentation included with the PA request, the Appellant has not had any recent reported issues with medication adherence, no reported falls, nor any reported hospitalizations. (Testimony, Exhibit 5). Optum concluded that it is appropriate for the Appellant's nursing services to be weaned from 5 visits per week (1 SNV plus 4 MAV) to 4 visits (1 SNV plus 3 MAV) with the 3 PRN visits in place. (Testimony)

The Appellant's Representative appeared at the Hearing and testified telephonically. The Appellant's Representative testified that the Appellant wishes to appeal the decrease in MAVs (Testimony). The Appellant's Representative stated that she understood Optum's determination but reiterated that the Appellant wished to keep his current level of MAVs. (Testimony)

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<sup>2</sup> PRN means "as needed."

## Findings of Fact

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

1. The Appellant is an adult who lives independently in the community. He is not homebound. He has diagnoses that include chronic diastolic (congestive) heart failure as well as major depressive disorder. (Testimony, Exhibit 5).
2. On May 16, 2025, MassHealth authorized skilled nursing visits (SNV) at 1 visit per week, as requested, 3 PRN visits, as requested, and medication administration visits (MAV) 3 times per week, from May 24, 2025 through August 23, 2025. (Testimony, Exhibit 1)
3. The MAV visits are for the purpose of assisting the Appellant with setting up and administering his medications (Testimony; Exhibit 5).
4. The Appellant has not had any recent reported issues with medication adherence, no reported falls, nor any reported hospitalizations. (Testimony).
5. The Appellant wishes to keep his current level of MAVs. (Testimony)

## Analysis and Conclusions of Law

Pursuant to 130 CMR 450.204 (A), MassHealth will not pay a provider for services that are not medically necessary; and may impose sanctions on a provider for providing or prescribing a service or for admitting a member to an inpatient facility where such service or admission is 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.

Regulations at 130 CMR 403.410 address prior-authorization requirements:

(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 care for each service approved per calendar week.

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.

Regulations at 130 CMR 403.409 address clinical eligibility criteria for home health services, as follows:

(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.

Clinical criteria is set out in regulations at 130 CMR 403.415, as follows:

(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.

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. 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 Commn.*, 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).

The Appellant's home health services provider submitted a request to MassHealth for skilled nursing visits (SNV) 1 time per week plus medication administration visits (MAV) 4 times

per week from May 24, 2025 through August 23, 2025 with 3 PRN visits. MassHealth modified the request to 1 SNV, 3 MAV per week plus 3 PRN visits from May 24, 2025 through August 23, 2025. At issue is the decrease in MAV from 4 per week 3 per week.

MassHealth cited to the Appellant's records which, according to the documentation included with the PA request, provided evidence that the Appellant has not had any recent reported issues with medication adherence, no reported falls, nor any reported hospitalizations. (Testimony, Exhibit 5). No testimony was offered disputing the accuracy of these records. Based upon this Administrative Record, the Appellant has not met the burden, by a preponderance of evidence, to show the invalidity of MassHealth's administrative determination. Accordingly, this appeal is DENIED.

## **Order for MassHealth**

Release aid pending. Proceed with modification to 1 skilled nursing visit (SNV) 1 time per week plus 3 medication administration visits (MAV) per week from May 24, 2025 through August 23, 2025 with 3 PRN visits.

## **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.



Patrick Grogan  
Hearing Officer  
Board of Hearings

cc: [REDACTED]

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