

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	DENIED	<b>Appeal Number:</b>	2509884
<b>Decision Date:</b>	10/29/2025	<b>Hearing Date:</b>	09/10/2025
<b>Hearing Officer:</b>	Kenneth Brodzinski	<b>Record Open to:</b>	10/03/2025

**Appearance for Appellant:**



**Appearances for MassHealth:**

Nichol Foss; Christina Thompson and David  
Lyczkowski, MD - Mass General Brigham  
Health Plan (MGBHP)



*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 - Pharmacy
<b>Decision Date:</b>	10/29/2025	<b>Hearing Date:</b>	09/10/2025
<b>MassHealth's Rep.:</b>	Christina Thompson	<b>Appellant's Rep.:</b>	[REDACTED]
<b>Hearing Location:</b>	Quincy	<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 June 26, 2025, MassHealth's agent, Mass General Brigham Health Plan (MGBHP) denied Appellant's prior authorization (PA) request for compounded testosterone cream (Exhibit A). Appellant filed this appeal in a timely manner on July 2, 2025 (130 CMR 610.015 and (Exhibit A). A PA denial constitutes adequate grounds for appeal (130 CMR 610.032).

### Action Taken by MassHealth

MassHealth's agent, MGBHP, denied Appellant's prior authorization (PA) request for compounded testosterone cream.

### Issue

The appeal issue is whether MassHealth's agent, MGBHP, properly applied the controlling regulations to accurate facts when it denied Appellant's prior authorization (PA) request for compounded testosterone cream.

## Summary of Evidence

The parties appeared by telephone. Prior to hearing Appellant filed a packet of documentation including a copy of the PA request (Exhibit B). Appellant filed a one page letter from her medical provider (Exhibit B).

Mass General Brigham Health Plan (MGBHP) operates as a health care insurer for Masshealth members. The MGBHP representatives testified that the subject appeal arises from its denial of a request for prior authorization (PA) for the payment of a compounded testosterone cream. The denial was based on MGBHP's conclusion that the request did not meet the criteria for an off-label use of a compounded medication.

The MGBHP medical director testified that the request was reviewed by endocrinologists from MGBHP's independent review organization. According to the medical director, the request identified Appellant as a perimenopausal female who was experiencing hypoactive sexual disorder leading to decreased libido. The request was denied on the grounds that MassHealth regulation 130 CMR 406.413(B) excludes from coverage any medications used to treat sexual dysfunction. The medical director indicated that it was not entirely clear from the documentation submitted with the request whether there were other diagnoses at issue, but the only one specifically identified was hypoactive sexual disorder.

The medical director acknowledged receipt and review of a letter of medical necessity filed by Appellant's requesting provider shortly before hearing (Exhibit C). The letter indicates that the medication is being sought to also treat fatigue and brain fog, not just sexual dysfunction.

According to the medical director, the question now becomes whether the requested compounded testosterone cream is medically necessary to treat fatigue and brain fog. The director indicated that to assess medical necessity, Appellant would need to document a valid diagnosis accompanied by supporting medical literature to support the off-label use of the requested medication. According to the medical director, neither brain fog nor fatigue is a diagnosis for which topical testosterone has been recommended in the medical literature.

The medical director also noted a third concern, the need to rule out less-costly alternatives. The medical director testified that there are several topical testosterone preparations that are available which are less costly and covered by MassHealth. To find medical necessity for the requested compounded medication, MGBHP would need to be provided with documentation of unsuccessful trials with these alternatives. The medical director testified that Appellant's PA request did not contain any evidence of any trials.

Counsel for Appellant stated that he generally agreed with the MGBHP medical director's testimony. Counsel acknowledged and explained that Appellant's provider had engaged in the

common practice of not listing all pertinent diagnoses on the PA request. Counsel requested that the record be left open to allow the provider to supplement and submit a complete list of pertinent diagnoses. Counsel also asserted that the requested compounded testosterone is being used in conjunction with other prescribed hormonal agents which have been tried and found to be safe and effective in treating Appellant's condition over the past several years (Exhibit C). Counsel also stated his belief that other testosterone preparations have been trialed.

The MGBHP director reiterated that in addition to the diagnoses, MGBHP would need to see supporting medical literature. The medical director added that Appellant would also have to submit documentation showing that at least three standard therapies have been trialed and failed. The medical director indicated that this was required by MGBHP's off-label use policy. The Hearing Officer questioned whether the MGBHP policy was consistent with MassHealth regulations and/or guidelines. In response, the medical director stated that it was MGBHP understanding that MassHealth does not have an explicit off-label use policy and instead uses a case-by-case approach to assess medical necessity whereas MGBHP has an explicit policy. The Hearing Officer explained that MGBHP would need to show that its off-label use policy is not more restrictive than Masshealth regulations and/or guidelines or otherwise show that Masshealth has reviewed MGBHP's policy and explicitly approved it as being compliant with MassHealth requirements.

The record was left open until September 19, 2025, for Appellant to make a post hearing filing. MGBHP was given until October 3, 2025, to file a written response. Both parties timely filed their post hearing submissions (Appellant – Exhibit D) (MGBHP – Exhibit E). These submissions will be discussed below in the Analysis and Conclusions of Law section.

## **Findings of Fact**

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

1. Mass General Brigham Health Plan (MGBHP) operates as a health care insurer for Masshealth members.
2. Appellant's medical provider filed a request for prior authorization (PA) with MGBHP for compounded testosterone cream.
3. The request was reviewed by MGBHP, as well as endocrinologists from MGBHP's independent review organization.
4. MGBHP denied the request upon determining it did not meet the criteria for an off-label use of a compounded medication.

5. The request identified Appellant as a perimenopausal female who was experiencing hypoactive sexual disorder leading to decreased libido.
6. MGBHP applied MassHealth regulation 130 CMR 406.413(B)(6) which excludes from coverage any medications used to treat sexual dysfunction.
7. The medical director indicated that it was not entirely clear from the documentation submitted with the request whether or not there were other diagnoses at issue, but the only one specifically identified was hypoactive sexual disorder.
8. A day prior to hearing, Appellant filed a one-page, type-written letter from her prescribing physician which indicates the medication is being sought to also treat fatigue and brain fog, not just sexual dysfunction (Exhibit C).
9. The letter also indicates that the requested compound testosterone is being used in conjunction with other prescribed hormonal agents which have been tried and found to be safe and effective in treating Appellant's condition over the past several years (Exhibit C).
10. There are a number of topical testosterone preparations that are available which are covered by MassHealth and are less-costly than the requested compound medication.
11. Appellant's PA request did not contain any evidence of any trials with less-costly alternatives.
12. At hearing, Appellant's Counsel requested that the record be left open to allow the provider to supplement and submit a complete list of pertinent diagnoses with supporting medical documentation and documentation of trials with less-costly alternatives.
13. MGBHP has an off-label use policy that requires the submission of documentation showing that at least three standard therapies have been trialed and failed.
14. The record was left open until September 19, 2025, for Appellant to make a post hearing filing. MGBHP was given until October 3, 2025, to file a written response. Both parties timely filed their post hearing submissions (Appellant – Exhibit D) (MGBHP – Exhibit E).

## 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)). On this record, Appellant has failed to meet her burden.

This matter suffers from a lack of follow-through by both parties.

The subject PA, as submitted, failed to list a diagnosis other than hypoactive sexual disorder. Accordingly, MGBHP properly applied the controlling MassHealth regulation 130 CMR 406.413(B)(6), which excludes from coverage any medications used to treat sexual dysfunction, and properly denied the request. Appellant's Counsel acknowledged the prescriber's failure to list all pertinent diagnoses and requested additional time to make a revised filing with additional diagnoses and supporting medical literature. Appellant's post-hearing submission (Exhibit D) did provide pertinent medical literature regarding the safe and effective use of testosterone in menopausal and post-menopausal women, but Appellant failed to have the prescriber submit Appellant's pertinent diagnoses. While the physician's letter filed prior to hearing does state that the hormone therapy regimen that was being prescribed was found to be effective for treating Appellant's fatigue and brain fog (Exhibit C), fatigue and brain fog are symptoms, not diagnoses. By the record close date, Appellant's request was still lacking any formal diagnosis other than hypoactive sexual disorder.

Appellant's post-hearing submission (Exhibit C) also failed to address the matter of trials of less-costly alternatives, namely non-compounded testosterone preparations that are covered by MassHealth and do not require prior authorization. At hearing, Counsel indicated that he believed such trials had occurred, but no information about any trials were submitted post hearing. This requirement is supported by the Masshealth medical necessity regulation.

130 CMR 450.204: Medical Necessity (emphasis supplied):

*The MassHealth agency does 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) 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.*

Given the lack of any documented trials of less-costly alternatives that do exist for compounded testosterone cream, a denial for lack of medical necessity is proper.

On this record, MGBHP's requirement arising from its own off-label use policy that requires documentation showing at least three standard therapies have been trialed and failed has not been shown to be in compliance with MassHealth regulations and Guidelines. MGBHP's post-hearing submission (Exhibit E) contained copies of a back and forth set of emails between employees of MassHealth and MGBHP concerning the review of off-label drug use. Nowhere do the emails identify and discuss the specific requirement at issue concerning documentation showing at least **three** standard therapies have been trialed and failed. Additionally, the authoritative value of these emails is minimal at best; they are not sufficient to evidence that MassHealth has reviewed this specific requirement and has deemed it to be in compliance with MassHealth/Medicaid regulations. In this instance, the lack of documentation of three failed trials does not support the denial of the subject PA request.

This record supports a finding that the denial of the PA was proper insofar as, by the record close date of this appeal, the request lacks a pertinent diagnosis other than hypoactive sexual disorder and fails to document trials of less-costly available alternatives to the requested compounded testosterone cream.

For the foregoing reasons, the appeal is DENIED.

Appellant may resubmit a new PA request at any time.

## Order for MassHealth/MGBHP

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.

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Kenneth Brodzinski  
Hearing Officer  
Board of Hearings

cc:

[REDACTED]

MassHealth Representative: Mass General Brigham Health Plan, Attn: Christina Thompson, 399  
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