

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2511287
<b>Decision Date:</b>	10/10/2025	<b>Hearing Date:</b>	09/04/2025
<b>Hearing Officer:</b>	Marc Tonaszuck		

**Appearance for Appellant:**



**Appearance for MassHealth:**

Linda Phillips, RN, Associate Director of Appeals and Regulatory Compliance



*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>	Community Case Management (CCM); Continuous Skilled Nursing
<b>Decision Date:</b>	10/10/2025	<b>Hearing Date:</b>	09/04/2025
<b>MassHealth's Rep.:</b>	Linda Phillips, RN	<b>Appellant's Rep.:</b>	Mother
<b>Hearing Location:</b>	Quincy Harbor South	<b>Aid Pending:</b>	No

## 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 07/01/2025, MassHealth informed the appellant, a minor child, that it denied her request for continuous skilled nursing (CSN) service hours (130 CMR 450.204; Exhibit 1). A timely appeal was filed on the appellant's behalf on 08/01/2025 (130 CMR 610.015(B); Exhibit 2). MassHealth agency actions to suspend, reduce, terminate, or restrict a member's assistance are valid grounds for appeal (see 130 CMR 610.032).

## Action Taken by MassHealth

MassHealth denied the appellant's request for CSN service hours.

## Issue

Was MassHealth correct, pursuant to 130 CMR 450.204(A)(1) and (A)(2); 130 CMR 422.410 and 130 CMR 503.007 in denying the appellant's request for CSN service hours?

## Summary of Evidence

Linda Phillips, RN, Associate Director of Appeals and Regulatory Compliance, testified for MassHealth's Community Case Management (CCM) program as to MassHealth/CCM's determination that the appellant does not qualify for MassHealth/CCM coverage of CSN. Ms. Phillips testified that as a matter of background, CCM provides authorization and coordination of MassHealth Long Term Services and Supports (LTSS), which includes CSN services, to a defined population of MassHealth eligible, medically complex Members.

The subject of this appeal is the 06/24/2025 Initial Individualized Assessment for Skilled Nursing Needs completed by MassHealth/CCM (Exhibit 4B, pages 55-59). Based on this clinical assessment, MassHealth/CCM identified 9 hours per week of skilled nursing interventions. Therefore, she does not require a skilled nurse visit of more than two continuous hours per day (greater than 14 hours/week), and she does not qualify for MassHealth/CCM coverage of CSN services. However, the appellant does qualify for 15 hours and 45 minutes of PCA services authorized by Optum until 12/13/2025 (Exhibit 4B, pages 48-49).

Pursuant to MassHealth Regulations 130 CMR 438.410 (B) (Exhibit 4A, page 14), in order for nursing services to be authorized by MassHealth, there must be a clearly identifiable, specific medical need for a nursing visit of more than two continuous hours.

Assessment for CSN services is conducted by MassHealth/CCM as part of a LTSS Needs Assessment. The regulations governing LTSS Needs Assessments are set forth at 130 CMR 438.414 (A)(2) (Exhibit 4A, page 18).

Pursuant to 130 CMR 450.204 (A) (Exhibit 4A, pages 33-34), 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, which is more conservative or less costly to MassHealth. 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 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.

The LTSS Individualized Assessment was completed in-person on 06/24/2025. Present for this in-home visit were Member - Appellant; Mother/Guardian; brother; and Wendy Scanlon, RN, MassHealth/CCM Case Manager (Exhibit 4B, page 48). Medical History: the appellant is [REDACTED] old with a primary diagnosis of [REDACTED]. Additional diagnoses include

epilepsy, failure to thrive, legally blind, and aortic root dilation. In [REDACTED], the appellant received a Baha hearing aid. She also experienced a seizure lasting 15 minutes in [REDACTED] after reconstruction surgery. An EEG was conducted at her home which was abnormal, but it did not specifically identify seizures. Ear drops have been required for a couple of ear infections and ear drops following the December surgery. Also, a sleep study is scheduled for the appellant in [REDACTED] (Exhibit 4B, page 48).

Based on this initial LTSS Needs Assessment (Exhibit 4B, pages 55-59) MassHealth/CCM determined that the following are the clearly identifiable, specific medical needs for the appellant's CSN services, and the time required to perform each nursing intervention. At the time of this assessment, the appellant's mother was noted to be knowledgeable about the appellant's care, and there was no teaching needs identified at this time.

- Respiratory:
  - Suctioning was identified as only required during illness. No daily time allotted.
  - Chest Physiotherapy (CPT) was identified as only required during illness. No daily time allotted.
  - Nebulizer treatments were identified as only required during illness. No daily time allotted.

Total daily time authorized for the appellant's Respiratory System is 0 minutes per day.

- Cardiac:
  - The appellant has a [REDACTED] which is functioning properly at the time of this assessment. No daily time for skilled interventions is allotted.

Total daily time authorized for the appellant's Cardiac System is 0 minutes per day.

- Gastro-Intestinal (GI)/Nutrition:
  - The appellant is offered one meal by mouth every day at 5pm. There is not any history of aspiration, therefore no daily time is allotted. No daily time for skilled interventions for aspiration is allotted.
  - G-tube care is required twice daily. Time allotted is 5 minutes, 2 times/day = 10 minutes per day to include cleansing and assessment of the site. In addition, check the balloon weekly and change the G-tube every 3 months. Time allotted is 10 minutes per day.
  - Initiation of pump feeding and assessment of tolerance is allotted for 10 minutes per day. Time allotted is 10 minutes per day.
  - Bolus feedings, including assessment, are allotted for 5 minutes, 4 times/day = 20 minutes per day. Time allotted is 20 minutes per day.

- The appellant receives 60 ml of water boluses 6 times per day. Time allotted is 2 minutes per water bolus, therefore 2 minutes, 6 times/day = 12 minutes per day. Time allotted is 12 minutes per day.
- The appellant receives a total of 5 doses of liquid medications administered daily. Time allotted is 2 minutes per dose, including time for a water flush with each dose. Time allotted is 10 minutes per day.
- Additional venting as needed for the G-tube is required 3 times per day, taking 2 minutes each time for gas. Time allotted is 6 minutes per day.
- Administration of as needed Miralax for constipation is required an average of 3 times per week. Including assessment, 5 minutes per dose is needed = 15 minutes per week. Daily dose is calculated by 15 minutes divided by 7 days, and this averages out to 3 minutes per day. Time allotted is 3 minutes per day.
- Time allotted is included with the skilled interventions above.

Total daily time authorized for the appellant's GI/Nutrition System is 71 minutes per day.

- Neurological
  - The appellant has abnormal movements daily, with seizures occurring an average of once per week and last less than 2 minutes. Seizures are characterized by clenching of her arms and typically do not require any interventions. As needed, Diazepam nasal spray was required 1 time in [REDACTED] for a seizure lasting 15 minutes. No daily skilled nursing interventions required and no time allotted.

Total daily time authorized for the appellant's Neurological System is 0 minutes per day.

- Pain Management
  - The appellant cries a lot and is consoled with comfort. As needed, medication for discomfort is not required regularly. No daily time is allotted.

Total daily time authorized for the appellant's Pain Management is 0 minutes per day.

Appellant's total initial CSN time calculated = 9 hours/week.

Ms. Phillips testified that the authorization of MassHealth CSN services is not intended for anticipatory needs, such as the possibility of an occurrence, nor are CSN services intended to provide unskilled care, such as PCA services.

As part of this detailed and comprehensive process to determine medically necessary CSN services, MassHealth/CCM considered all the appellant's current medical needs as of the date of this assessment, 06/24/2025 and as reported during this initial needs assessment, including how long it takes her caregivers to provide those services. Based on this current LTSS Needs Assessment, and the medical information provided, MassHealth/CCM determined that the

appellant does not qualify for MassHealth coverage of medically necessary CSN services as supported by MassHealth Regulation 130 CMR 438. 410 (B) states that in order for nursing services to be authorized by MassHealth, there must be a clearly identifiable, specific medical need for a nursing visit of more than two continuous hours per day.

The appellant's mother testified at the fair hearing that the appellant is a "very complex child." The mother explained that she has a son with the same condition as the appellant. He receives 40 hours per week of continuous nursing services. The mother testified that the appellant also needs 40 hours per week. She submitted a letter from the appellant's neurologist supporting her request, that states:

It is my medical opinion that home skilled nursing support through the Visiting Nurse Association (VNA) is medically necessary to:

- Provide immediate assessment and intervention during seizure episodes to prevent injury and complications.
- Monitor neurologic and overall health status, ensuring timely medication administration and management of emergency rescue therapy.
- Reduce the risk of preventable hospitalizations and emergency department visits due to untreated prolonged seizures or Injury from seizures.
- Provide essential respite and support to family caregivers who cannot reasonably provide the level of skilled care required 24/7.

I am requesting 40 hours per week of home nursing services to support [the appellant's] safety and medical needs. This level of care is necessary to maintain her health and to mitigate the high risk of Injury or medical deterioration.

(Exhibit 5).

The mother testified that the appellant has "frequent seizures" which require continuous monitoring by a nurse. The appellant goes to school but needs assistance with breathing treatments at home before school. After school, she gets home at 3:00 p.m. and needs nursing services, including feeding, water bolus, and diaper changes. She usually needs another breathing treatment after school, which takes about 15-20 minutes. According to the mother, the appellant requires a nurse to give the medications twice a day. Each instance takes approximately 15 minutes.

## Findings of Fact

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

1. The appellant is [REDACTED]  
[REDACTED] n [REDACTED], the appellant received a Baha hearing aid. She also

experienced a seizure lasting 15 minutes in [REDACTED] after reconstruction surgery.

2. LTSS Individualized Assessment was completed in-person on 06/24/2025. Present for this in-home visit were Member - Appellant; Mother/Guardian; brother; and Wendy Scanlon, RN, MassHealth/CCM Case Manager.
3. At the time of this assessment, the appellant's mother was noted to be knowledgeable about the appellant's care, and there no teaching needs identified at this time.
4. For Respiratory nursing needs, MassHealth identified the following nursing needs from the appellant's clinical record
  - Suctioning was identified as only required during illness. No daily time allotted.
  - Chest Physiotherapy (CPT) was identified as only required during illness. No daily time allotted.
  - Nebulizer treatments were identified as only required during illness. No daily time allotted.
5. MassHealth determined that the total daily time authorized for the appellant's Respiratory System is 0 minutes per day.
6. For cardiac nursing services, MassHealth made the following determination based on the appellant's clinical record:
  - The appellant has a [REDACTED] which is functioning properly at the time of this assessment. No daily time for skilled interventions is allotted.
7. For cardiac nursing services, MassHealth determined that the Total daily time authorized for the appellant's Cardiac System is 0 minutes per day.
8. MassHealth made the following findings for the appellant's Gastro-Intestinal (GI)/Nutrition nursing needs:
  - The appellant is offered one meal by mouth every day at 5pm. There is not any history of aspiration, therefore no daily time is allotted. No daily time for skilled interventions for aspiration is allotted.
  - G-tube care is required twice daily. Time allotted is 5 minutes, 2 times/day = 10 minutes per day to include cleansing and assessment of the site. In addition, check the balloon weekly and change the G-tube every 3 months. Time allotted is 10 minutes per day.
  - Initiation of pump feeding and assessment of tolerance is allotted for 10 minutes per day. Time allotted is 10 minutes per day.

- Bolus feedings, including assessment, are allotted for 5 minutes, 4 times/day = 20 minutes per day. Time allotted is 20 minutes per day.
  - The appellant receives 60 ml of water boluses 6 times per day. Time allotted is 2 minutes per water bolus, therefore 2 minutes, 6 times/day = 12 minutes per day. Time allotted is 12 minutes per day.
  - The appellant receives a total of 5 doses of liquid medications administered daily. Time allotted is 2 minutes per dose, including time for a water flush with each dose. Time allotted is 10 minutes per day.
  - Additional venting as needed for the G-tube is required 3 times per day, taking 2 minutes each time for gas. Time allotted is 6 minutes per day.
  - Administration of as needed Miralax for constipation is required an average of 3 times per week. Including assessment, 5 minutes per dose is needed = 15 minutes per week. Daily dose is calculated by 15 minutes divided by 7 days, and this averages out to 3 minutes per day. Time allotted is 3 minutes per day.
  - Time allotted is included with the skilled interventions above.
9. Total daily time MassHealth authorized for the appellant's GI/Nutrition System is 71 minutes per day.
10. In evaluating the appellant's need for neurological nursing services, MassHealth relied on the following information from the appellant's clinical record:
- The appellant has abnormal movements daily, with seizures occurring an average of once per week and last less than 2 minutes. Seizures are characterized by clenching of her arms and typically do not require any interventions. As needed, Diazepam nasal spray was required 1 time in [REDACTED] for a seizure lasting 15 minutes. No daily skilled nursing interventions required and no time allotted.
11. The total daily time MassHealth authorized for the appellant's Neurological System is 0 minutes per day.
12. MassHealth evaluated the appellant's needs for pain management nursing services using the clinical documentation and determined that "the appellant cries a lot and is consoled with comforting. As needed, medication for discomfort is not required regularly. No daily time is allotted."
13. Total daily time MassHealth authorized for the appellant's Pain Management is 0 minutes per day.
14. MassHealth calculated the appellant's total initial CSN time as 9 hours/week.

15. In order for nursing services to be authorized by MassHealth, there must be a clearly identifiable, specific medical need for a nursing visit of more than two continuous hours per day.
16. There is no evidence that the appellant requires a clearly identifiable specific medical need for a nursing visit of more than two continuous hours per day.
17. Appellant's physician supported a letter in support of the appellant's request for 40 hours per week of continuous nursing services.

## Analysis and Conclusions of Law

MassHealth regulations at 130 CMR 438.410(B) address continuous skilled nursing coverage as follows:

(B) Clinical Eligibility for CSN Services. A member is clinically eligible for MassHealth coverage of CSN services when all of the following criteria are met.

(1) ***There is a clearly identifiable, specific medical need for a nursing visit to provide nursing services, as described at 130 CMR 438.410(A), of more than two continuous hours;***

(2) The CSN services are medically necessary to treat an illness or injury in accordance with 130 CMR 438.410; and

(3) Prior authorization is obtained by the CSN agency in accordance with 130 CMR 438.411.

Regulations at 130 CMR 403.412 address complex-care members as follows:

Regulations at 130 CMR 450.204 describe medical necessity.

The MassHealth agency 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) 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.

MassHealth completed the LTSS Individualized Assessment in-person on 06/24/2025. The MassHealth case manager reviewed the appellant's clinical record and made the determination that the appellant does not require at least 2 hours of continuous skilled nursing services daily. MassHealth detailed the records that were reviewed and the conclusions that were drawn from them. MassHealth determined that the appellant requires 9 hours per week of clearly identifiable, specific medical needs for a nursing visit to provide nursing services, as described at 130 CMR 438.410(A). To qualify for the continuous skilled nursing visits, the appellant would have to show at least 2 hours per day of skilled nursing needs. MassHealth denied the request after concluding that the appellant did not meet these criteria.

In support of the appellant's request for continuous skilled nursing services, the appellant's mother testified that she needs 40 hours per week of skilled nursing services. She also provided a letter from the appellant's physician, which states that

It is my medical opinion that home skilled nursing support through the Visiting Nurse Association (VNA) is medically necessary to:

- Provide immediate assessment and intervention during seizure episodes to prevent injury and complications.
- Monitor neurologic and overall health status, ensuring timely medication administration and management of emergency rescue therapy.
- Reduce the risk of preventable hospitalizations and emergency department visits due to untreated prolonged seizures or Injury from seizures.
- Provide essential respite and support to family caregivers who cannot reasonably provide the level of skilled care required 24/7.

I am requesting 40 hours per week of home nursing services to support [the appellant's] safety and medical needs. This level of care is necessary to maintain her health and to mitigate the high risk of Injury or medical deterioration.

(Exhibit 5.)

Although the letter from the physician supports the appellant's request, it is unclear how she concluded that 40 hours per week is adequate. Her analysis does not use the MassHealth regulations as a basis for her conclusion. He does not show how the appellant's needs will be met with the 40 hours per week of nursing care. The time requested is a conclusion, with no

individual time calculated per task. The physician also states that nursing services should be provided to monitor, assess and intervene when the appellant is having a seizure. MassHealth correctly argued that the time approved for CSN services is not intended for anticipatory needs, such as the possibility of an occurrence, nor are CSN services intended to provide unskilled care, such as PCA services.

The appellant has not met her burden of showing that MassHealth's analysis and denial of the request for CSN is incorrect. Accordingly, MassHealth's decision is supported by the regulations and the facts in the hearing record. This appeal is therefore denied.

## **Order for MassHealth**

None.

## **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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Marc Tonaszuck  
Hearing Officer  
Board of Hearings

MassHealth Representative: Linda Phillips, UMass Medical School - Commonwealth Medicine, Disability and Community-Based Services, 333 South Street, Shrewsbury, MA 01545-7807