# Office of Medicaid
# BOARD OF HEARINGS

**Appellant Name and Address:**

[redacted]

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| **Appeal Decision:** | Denied | **Appeal Number:** | 2511707 |
| **Decision Date:** | 10/20/2025 | **Hearing Date:** | 09/25/2025 |
| **Hearing Officer:** | Thomas J. Goode | | |

**Appearance for Appellant:**
Pro se

**Appearances for Accountable Care Organization: Mass General Brigham Health Plan**
Nichol Foss, Christina Thompson, Tianta Thompson: Appeals & Grievances
James Hellinger, MD, Medical Director
Michaele Freeman, MCO Contract Mgr. for MassHealth

*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

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| **Appeal Decision:** | Denied | **Issue:** | Managed Care Organization-Denial of Internal Appeal |
| **Decision Date:** | 10/20/2025 | **Hearing Date:** | 09/25/2025 |
| **ACO's Reps.:** | Nichol Foss, et al. | **Appellant's Rep.:** | Pro se |
| **Hearing Location:** | Remote | **Aid Pending:** | 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 August 1, 2025, Mass General Brigham Health Plan (MGBHP), a MassHealth Accountable Care Organization (ACO), informed Appellant that it had denied an internal appeal of a prior authorization request for the drug Zepbound because the medical evidence did not meet the medical necessity criteria (Exhibit 1). Appellant filed this appeal in a timely manner on August 11, 2025 (130 CMR 610.015(B) and Exhibit 2). An ACO's denial of a request for prior authorization is valid grounds for appeal to the Board of Hearings (130 CMR 610.032(B)(2)).

## Action Taken by ACO

MGBHP denied Appellant's prior authorization request for the drug Zepbound.

## Issue

The appeal issue is whether MassHealth's agent or designee, MGBHP, was correct in denying Appellant's internal appeal of a prior authorization request for the drug Zepbound because Appellant did not meet the prior authorization and medical necessity criteria for the requested drug.

## Summary of Evidence

Mass General Brigham Health Plan (MGBHP) was represented by a manager and other members of the appeals and grievances department, and a medical director of MGBHP. The MCO contract manager for MassHealth also appeared by telephone as an observer. Appellant is enrolled in a MGBHP Accountable Care Organization.[1] MGBHP testified that Appellant is a [redacted] female with diagnoses of anxiety and depression, and obesity with elevated body mass and a body mass index (BMI) of 40.06 and a weight of [redacted] (Exhibit 4, p. 81). Appellant is currently prescribed 300 mg of bupropion (Wellbutrin) per day, and anxiety and depression are controlled (Exhibit 4, p. 67). Appellant does not have a history of seizure disorder or uncontrolled hypertension other than a history of hypertension during pregnancy and antepartum (Exhibit 4, p. 67). On June 27, 2025, Appellant's medical provider submitted a prior authorization request for Zepbound (tirzepatide) injectable 2.5 mg. A denial letter was issued by MGBHP on June 27, 2025 because Appellant had not shown a trial and failure of phentermine. On July 7, 2025, Appellant initiated an internal appeal with MGBHP. On July 23, 2025, MGBHP submitted the appeal documentation to an external independent review organization which upheld the denial stating that Appellant is required to try and fail phentermine or demonstrate a contraindication. Through a notice dated August 1, 2025, Mass General Brigham Health Plan (MGBHP), a MassHealth Accountable Care Organization (ACO), informed Appellant that it had denied an internal appeal of a prior authorization request for the drug Zepbound because the medical evidence did not meet the medical necessity criteria (Exhibit 1).

[redacted] Deputy Chief Medical Officer for MGBHP testified that his background is in internal medicine and he has familiarity with prescribing Zepbound. [redacted] testified that a trial and failure of phentermine, or a contraindication to phentermine, is required by MassHealth policy and in the prior authorization requirements for Zepbound specified in the MassHealth Drug List. [redacted] testified that Appellant's primary care provider raised concern about phentermine causing serotonin activation syndrome, which is a rare condition. [redacted] pointed to MassHealth prior authorization requirements for anti-obesity agents, created by MassHealth staff and pharmacists, which specify acceptable contraindications for the use of phentermine. The contraindications include seizure disorder, uncontrolled anxiety despite pharmacotherapy, and uncontrolled hypertension defined as average blood pressure greater than 140/90 despite pharmacotherapy. These contraindications are not documented in Appellant's medical records (Exhibit 4 pp. 108-109, 64-104). Appellant's request for Zepbound was reviewed by MGBHP and was also sent to an independent expert reviewer, board certified in psychiatry and neurology, to specifically address whether phentermine is contraindicated due to the risk of seizures in a patient prescribed Wellbutrin, 300 mg daily. The review was returned with the conclusion that phentermine is not contraindicated in a patient prescribed bupropion (Wellbutrin) 300 mg per day with controlled anxiety and depression and no history of seizure disorder, and concluded that a trial of phentermine

[1] An accountable care organization is defined at 130 CMR 501.001 as an entity that enters into a population-based payment model contract with EOHHS as an accountable care organization, wherein the entity is held financially accountable for the cost and quality of care for an attributed or enrolled member population. ACOs include Accountable Care Partnership Plans, Primary Care ACOs, and MCO-Administered ACOs.

is an acceptable and likely safe and effective approach to consider (Exhibit 8). [redacted] concluded that because there is insufficient evidence contraindicating a trial of phentermine, the denial of the prior authorization request for Zepbound was upheld by MGBHP.

Appellant testified that she had a hearing in June 2025, which she withdrew to provide MGBHP additional information from her medical providers. Appellant submitted into evidence an emailed narrative (Exhibit 5) and testified that she has struggled with weight loss for years, and despite dietary and lifestyle changes her BMI has remained around 38, placing her at increased risk for hypertension, for which she was hospitalized after giving birth to her child. Appellant added that she suffers from anxiety and depression for which she is prescribed Wellbutrin 300 mg daily. Appellant presented online research and Artificial Intelligence summaries that she asserts show that phentermine is structurally similar to an amphetamine and carries significant risks including increased anxiety and blood pressure, both of which are serious concerns given her medical history and could worsen her conditions. Appellant asserts that in contrast, Zepbound has been shown to be highly effective with studies reporting 85-91% of participants losing at least 5% of body weight and 50-57% achieving weight loss of 20% or more over 72 weeks with a side effect profile that is considerably safer, especially in light of her depression, anxiety, and history of hypertension. Appellant also asserted that weight loss would help with knee pain she experiences. Appellant argued that her primary care provider determined that Zepbound is the safest and most effective treatment option for her diagnosis of obesity and specifically advised against phentermine, and that a trial of phentermine would undermine patient care and pose a serious risk to her health. Appellant pointed to a medical note from her nurse practitioner, [redacted] who manages her primary care, which states that Appellant is prescribed Wellbutrin XL for anxiety and depression, and was also prescribed Zepbound for weight loss. The note states that "it is my medical and professional opinion that phentermine is contraindicated for this patient due to increased risk of worsening anxiety along with possible interactions with Wellbutrin which include seizures and serotonin syndrome." (Exhibit 6) Appellant testified that she should not have to trial phentermine before being approved for Zepbound because it poses risks to her health.

# Findings of Fact

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

1. Appellant is enrolled in a MGBHP Accountable Care Organization.

2. Appellant is a [redacted] female with diagnoses of anxiety and depression, and obesity with an elevated body mass and a body mass index (BMI) of 40.06 and a weight of [redacted]

3. Appellant is currently prescribed 300 mg of bupropion (Wellbutrin) per day, and anxiety and depression are controlled.

4. Appellant does not have a history of seizure disorder or uncontrolled hypertension other than hypertension during pregnancy and antepartum.

5. On June 27, 2025, Appellant's medical provider submitted a prior authorization request for Zepbound (tirzepatide) injectable 2.5 mg. A denial letter was issued by MGBHP on June 27, 2025 because Appellant had not shown a trial and failure, or contraindication of, phentermine.

6. On July 7, 2025, Appellant initiated an internal appeal with MGBHP.

7. Through a notice dated August 1, 2025, MGBHP informed Appellant that it had denied an internal appeal of a prior authorization request for Zepbound because the medical evidence did not meet medical necessity criteria.

8. MassHealth prior authorization requirements for anti-obesity agents specify acceptable contraindications for the use of phentermine which include seizure disorder, uncontrolled anxiety despite pharmacotherapy, and uncontrolled hypertension defined as average blood pressure greater than 140/90 despite pharmacotherapy; these contraindications are not documented in Appellant's medical records.

9. Appellant's request for Zepbound was reviewed by MGBHP and was also sent to an independent expert reviewer, board certified in psychiatry and neurology, to specifically address whether phentermine is contraindicated due to the risk of seizures in a patient prescribed Wellbutrin, 300 mg daily. The review concluded that phentermine is not contraindicated in a patient prescribed bupropion (Wellbutrin) 300 mg per day with controlled anxiety and depression and no history of seizure disorder, and that a trial of phentermine is an acceptable and likely safe and effective approach to consider.

# Analysis and Conclusions of Law

A hearing decision must be based on a preponderance of the evidence (130 CMR 610.082(B)), and Appellant has the burden of proving by a preponderance of the evidence the invalidity of the determination by the MassHealth agency or the ACO contracting with MassHealth.[2]

MassHealth members who are younger than 65 years old must enroll in a MassHealth managed care provider available for their coverage type. Pursuant to 130 CMR 508.010(B), members are entitled to a fair hearing under 130 CMR 610.000: *MassHealth: Fair Hearing Rules* to appeal:

[2] See Fisch v. Board of Registration in Med., 437 Mass. 128, 131 (2002) (burden is on appellant to demonstrate the invalidity of an administrative determination).

(B) a determination by the MassHealth behavioral health contractor, by one of the MCOs, Accountable Care Partnership Plans, or SCOs as further described in 130 CMR 610.032(B), if the member has exhausted all remedies available through the contractor's internal appeals process…

Appellant exhausted the internal appeal process through the MGBHP and is entitled to a fair hearing pursuant to the above regulations. As MassHealth's agent, MGBHP is required to follow MassHealth rules and regulations pertaining to a member's care. By regulation, MassHealth will not pay for services that are not medically necessary. Regulation 130 CMR 450.204 states the following regarding medical necessity:

(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.

(B) Medically necessary services must be of a quality that meets professionally recognized standards of health care, and must be substantiated by records including evidence of such medical necessity and quality. …

(C) A provider's opinion or clinical determination that a service is not medically necessary does not constitute an action by the MassHealth agency.

***(D) Additional requirements about the medical necessity of MassHealth services are contained in other MassHealth regulations and medical necessity and coverage guidelines.***

(emphasis added).

As subsection (D) indicates, MassHealth establishes additional medical necessity criteria throughout its regulations and publications governing specific health-related service-types. For coverage of prescription drugs, MassHealth publishes and routinely updates a "Drug List" - a formulary that identifies whether a covered drug is subject to prior approval and the specific criteria required to establish medical necessity for the drug. See 130 CMR 406.422; 130 CMR 450.303. The criteria used to determine medical necessity is "based upon generally accepted standards of

practice, review of the medical literature, federal and state policies, as well as laws applicable to the Massachusetts Medicaid Program." [3] Further, the criteria reflect MassHealth's policy as described in its pharmacy regulations and the reviews conducted by the agency and the Drug Utilization Review (DUR) board. See Id.

The MassHealth Drug List shows the following criteria for authorization of Zepbound:

- Documentation of the following is required for obesity, overweight, or moderate to severe obstructive sleep apnea (OSA) with obesity:
    - appropriate diagnosis; **and**
    - member is ≥ [redacted]; **and**
    - member weight (dated within the 90 days prior to initiation of pharmacotherapy for obesity [does not have to be the requested agent]); **and**
    - member has been counseled to continue reduced-calorie diet and increased physical activity; **and**
    - requested quantity is ≤ four pens/28 days; **and**
    - requested agent will not be used in combination with another GLP-1 receptor agonist; **and**
    - one of the following*:
        - inadequate response to phentermine with or without topiramate defined as all of the following:
            - member is adherent to phentermine (defined as ≥ 90 out of the last 120 days)**; **and**
            - one of the following:
            - insufficient clinical response defined as < 5% reduction in body weight from baseline despite initial trial of ≥ three months of treatment with the maximally tolerated dose of phentermine; **or**
            - plateaued clinical response defined as no weight loss for at least ≥ three months of treatment with the maximally tolerated dose of phentermine; **and**
            - member's current BMI is ≥ 27 kg/$m^2$ (dated within the 90 days prior to treatment initiation of requested agent); **or**
            - medical records documenting adverse reaction to phentermine that is allergic in nature or cannot be expected or managed as part of weight loss therapy; **or**
            - medical records documenting contraindication to phentermine; **and**
            - one of the following:

[3] See MassHealth Drug List at: https://mhdl.pharmacy.services.conduent.com/MHDL/

- member BMI is ≥ 30 kg/$m^2$ (dated within the 90 days prior to initiation of pharmacotherapy for obesity [does not have to be the requested agent]); and
- both of the following:
  - member BMI is ≥ 27 kg/$m^2$ (dated within the 90 days prior to initiation of pharmacotherapy for obesity [does not have to be the requested agent]); **and**
  - one of the following weight-related comorbid conditions:
    - coronary heart disease or other atherosclerotic disease; **or**
    - dyslipidemia; **or**
    - hypertension; **or**
    - non-alcoholic steatohepatitis (NASH); **or**
    - obstructive sleep apnea; **or**
    - polycystic ovarian syndrome; **or**
    - prediabetes; **or**
    - systemic osteoarthritis; **or**
    - type 2 diabetes mellitus.

(See Exhibit 4, pp. 115-116)

The MassHealth Drug List specifies the following acceptable contraindications to phentermine:

- Allergy to phentermine or any of the excipients
- Arrhythmia
- Bipolar disorder with mania
- Concomitant use of stimulants
- Concomitant use of monoamine oxidase inhibitor (MAOI)
- Congestive heart failure
- Coronary artery disease
- Glaucoma
- History of myocardial infarction (MI)
- History of psychosis
- History of stroke
- Hyperthyroidism
- Pregnancy or lactation
- Seizure disorder
- Substance use disorder (SUD), opioid use disorder (OUD), alcohol use disorder, stimulant use disorder
- Symptomatic peripheral artery disease
- Uncontrolled anxiety despite pharmacotherapy
- Uncontrolled hypertension defined as average blood pressure of ≥ 140/90mm Hg despite

pharmacotherapy

(See Exhibit 4, pp. 108-109)

Appellant is a [redacted] female with diagnoses of anxiety and depression, and obesity with an elevated body mass and a body mass index (BMI) of 40.06 and a weight of [redacted] (Exhibit 4, p. 81). Appellant is currently prescribed 300 mg of bupropion (Wellbutrin) per day, and anxiety and depression are controlled (Exhibit 4, p. 67). Appellant does not have a history of seizure disorder or uncontrolled hypertension, other than hypertension experienced during pregnancy and antepartum (Exhibit 4, p. 67). It is undisputed that Appellant meets the prior authorization requirements for Zepbound except for a phentermine trial. Appellant argues that phentermine is "contraindicated due to the increased risk of worsening anxiety along with possible interactions with Wellbutrin which include seizures and serotonin syndrome" as stated by her primary care provider (Exhibit 6). The clinical evidence in the hearing record shows that Appellant does not have a condition that meets acceptable contraindications to phentermine specified in the MassHealth Drug List. Appellant's primary care provider's note asserting that the use of phentermine with Wellbutrin is contraindicated due to the possibility of serotonin syndrome and lowering the seizure threshold is not supported with credible clinical research or evidence.[4] The prior authorization request was sent by MGBHP to an independent expert reviewer who is board certified in psychiatry and neurology to specifically address whether phentermine is contraindicated in a patient prescribed 300 mg Wellbutrin daily. The report concluded that phentermine is not contraindicated in a patient prescribed bupropion (Wellbutrin) 300 mg per day with controlled anxiety and depression and no history of seizure disorder (Exhibit 8). The report also does not identify a risk of serotonin syndrome which [redacted] testified to be a rare condition (Id). While Appellant has submitted information from online sources such as Drugs.com and Artificial Intelligence summaries that show some possible risks associated with phentermine (Exhibit 5), MGBHP has presented more credible medical evidence and testimony that is consistent with the medical record and the contraindications identified in the MassHealth Drug List for the use of phentermine, which are given greater evidentiary weight in this analysis. Appellant has not carried the burden of proof in showing that a trial of phentermine is contraindicated under MassHealth prior authorization requirements and therefore has not shown that Zepbound is medically necessary at this time. Accordingly, the appeal is DENIED.

# Order for MassHealth

None.

[4] In Appellant's medical record, her primary care provider refers to Appellant's research of potential interactions between Wellbutrin and phentermine, which she states are classified as a class C interaction due to the risk of seizures as confirmed on up to date (Exhibit 4, p. 82). Here, this assertion has been challenged with credible medical testimony and the independent medical review report, in addition to the specified exceptions to a phentermine trial outlined in the MassHealth prior authorization requirements. Appellant's provider's isolated statement in the medical record does not carry the burden of proof without additional support from credible medical research.

## 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.

Thomas J. Goode
Hearing Officer
Board of Hearings

MassHealth Representative: Mass General Brigham Health Plan, Attn: Christina Thompson, 399 Revolution Drive, Suite 810, Somerville, MA 02145