

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2515804
Decision Date:	2/11/2026	Hearing Date:	01/21/2026
Hearing Officer:	Alexandra Shube		

Appearance for Appellant:

Via telephone:

Grandmother/Guardian
MA, BCBA, LABA,
MA, BCBA, LABA, Director of

Appearance for Respondent/MBHP:

Via telephone:

Anthony Holston, Staff VP, Grievances & Appeals;
Simreet Khaira, MD, MBHP Medical Dir.
AnnMarie Powers, BH Care Mgr. II
Ramon Madrigal, Legal Specialist II
Clare Sullivan, MH Office of Accountable Care & Behavioral Health, Program Mgr.
Carisa Pajak, MH Office of Accountable Care & Behavioral Health, Mgr.



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:	Managed Care; Denial of Internal Appeal; ABA services
Decision Date:	2/11/2026	Hearing Date:	01/21/2026
Respondent's Reps.:	Anthony Holston, et al.	Appellant's Reps.:	ABA Providers; Grandmother/Guardi an
Hearing Location:	Quincy Harbor South, Remote	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 Level 1 internal appeal determination dated October 20, 2025, the Massachusetts Behavioral Health Partnership (MBHP), a MassHealth managed care contractor,¹ informed the appellant, a minor, that it denied his prior authorization (PA) request for an increase in Applied Behavioral Analysis (ABA) services. *See* Exhibit 1. The appellant, through his representatives, filed a timely appeal with the Board of Hearings (BOH) on October 28, 2025. *See* 130 CMR 610.015(B) and Exhibit 2. A managed care contractor's denial of an internal appeal is grounds for appeal. *See* 130 CMR 610.032(B)(2).

Action Taken by MBHP

MBHP denied the appellant's prior authorization request for an increase in ABA services.

¹ The term "Managed Care Contractor," as defined by MassHealth Fair Hearing Rules, consists of any MassHealth contracted managed care organization including a SCO, ICO, or behavioral health contractor. *See* 130 CMR 610.004. MBHP is the behavioral health contractor for MassHealth.

Issue

The appeal issue is whether MBHP, acting on behalf of MassHealth, erred in upholding its denial of the appellant's request for an increase in covered ABA services.

Summary of Evidence

All parties appeared at hearing via telephone. The appellant was represented at hearing by his grandmother, who is his legal guardian, and two Board Certified Behavior Analysts (BCBA) from [REDACTED] his ABA provider (hereinafter, "the appellant," "the appellant's representatives," or [REDACTED]). MBHP was represented by its vice president of grievances and appeals, medical director, care manager, and legal specialist (hereinafter, "MBHP" or "MBHP representatives"). Two representatives from MassHealth's Office of Accountable Care & Behavioral Health also appeared at hearing as observers.

Through oral testimony and documentary submissions, the MBHP representatives presented the following evidence: MBHP is the behavioral health contractor for MassHealth and, as such, is responsible for administering and coordinating behavioral health services for MassHealth members, such as the appellant. Ex. 5 at 2. On August 7, 2025, MBHP received a request to add 2 hours per week of supervision (CPT code 97155) and 10 hours per week of direct ABA therapy (CPT code 97153) to the existing authorization for 20 hours per week of direct ABA therapy services and 4 hours per week of supervision. *Id.* The prior authorization period requested is from August 7, 2025 to November 22, 2025. *Id.* at 3. On August 20, 2025, MBHP denied the request for additional hours. On October 7, 2025, MBHP received a request for a Level 1 internal Member Appeal of the denied 2 hours per week of supervision and 10 hours per week of direct ABA therapy. *Id.* Following a review of the clinical record, MBHP issued a Level 1 Internal Appeal determination on October 20, 2025, upholding the denial of additional hours. *Id.*

MBHP determined that the clinical information provided by [REDACTED] indicates that the additional requested hours per week were not medically necessary. *Id.* Rather, the 20 hours per week of direct ABA therapy that MBHP previously approved (for the PA period of May 21, 2025 to November 22, 2025) were appropriate to address the behaviors and needs of the appellant. *Id.* The appellant is a [REDACTED]-year-old child with autism spectrum disorder. *Id.* ABA is a type of therapy that can be used for children with autism and developmental disorders. It helps with skills like talking, learning, playing, and daily activities. *Id.* The goal is to help children function as best as they can on their own. *Id.* The appellant is making progress towards his goals and is not engaging in any dangerous or severe behaviors. *Id.* There was no data to support the need for the additional services being requested. *Id.*

A care manager from MBHP, who is a licensed BCBA and LABA practicing in the field of behavior for over twenty years, testified that she conducts initial reviews for all incoming ABA PA requests. She explained that all such requests are determined in accordance with MBHP's *Medical Necessity Criteria for Applied Behavioral Analysis* ("MNC-ABA") See Ex. 5 at 5-7. A copy of this document, which was submitted into evidence, defines ABA services, in part, as follows:

ABA is a well-developed scientific discipline among the helping professions that focuses on the analysis, design, implementation, and evaluation of social and other environmental modifications to produce meaningful changes in human behavior. ABA includes the use of direct observation, measurement, and functional analysis of the relations between environment and behavior. ABA uses changes in environmental events, including antecedent stimuli and consequences, to produce practical and significant changes in behavior.

....

The individual ABA treatment plan is developed by a Licensed Applied Behavior Analyst. The actual one-on-one sessions are typically provided by behavior technicians or paraprofessionals, ***with services ranging in hours of Member contact per week based on the severity of symptoms and intensity of treatment.*** The technician is supervised by the Licensed Applied Behavior Analyst.

...

ABA is typically an extremely intensive treatment program designed to address challenging behavior as defined in our admission criteria. It can occur in any number of settings, including home, agencies, and hospitals.

Id. at 5 (emphasis added).

As background, the MBHP care manager explained that in May 2025, MBHP originally received a request for continuation of services at the rate of 30 hours per week for direct and 6 hours per week of supervision. As it was a concurrent review, she looked at the past utilization to see what the appellant had been able to access for the past authorization over the past year where MBHP had previously approved the 30 hours of direct and 6 hours of supervision. On average, he accessed the following services: 1.8 hours per week of supervision and 15 hours per week of direct 1:1 ABA services. When MBHP sees a trend like that, they reach out to the ABA provider to see if there may be any barriers impacting the appellant from accessing the full amount that had been requested and approved. From there, the MBHP care manager reviewed all the data provided by the ABA provider to see where the appellant was demonstrating progress or maybe regression in skills due to not being able to access the full amount that had been approved.

Based on available data from the past year, the appellant had demonstrated making progress in skill acquisition, as well as a decrease in maladaptive behaviors, while averaging 15 hours per week direct. From there, based on her review of the clinical data and MBHP's medical necessity criteria,

the MBHP care manager recommended a reduction to 20 hours per week of direct therapy, which was also more aligned with what the appellant was able to access, and 4 hours per week of supervision. The ABA provider agreed to the recommendation and that was sent for approval in May 2025. Then, on August 7, 2025, MBHP received a request for the additional hours that are currently under appeal. MBHP looks for the following to support medical necessity of the additional hours: is the member showing regression in skills due to the decrease in hours; is the member demonstrating new or increasing maladaptive behaviors that could impact that member's skill acquisition in ABA; or if the member is having skill acquisition occurring at higher rates, is the BCBA now having to add additional goals to keep up with the member's progress. None of that was demonstrated to MBHP in the PA request for increased hours. It was demonstrated that the member is now able to *access* 30 hours per week, but that is not considered for medical necessity. MBHP needs the data to support that there is a medically necessary reason to increase the hours. The appellant's provider increased the appellant's hours on its own because that's what it felt was necessary, but it did not provide any documentation to support that the member was only making progress due to the provider increasing hours to 30, and not at the 20 hours that had already been approved. The MBHP care manager's recommendation was to continue at 20 hours per week due to the data not demonstrating the need for the increase. Thus, the PA request for an additional 2 hours per week of supervision and 10 hours per week of direct ABA therapy to the existing authorization for 20 hours per week of direct ABA therapy services and 4 hours per week of supervision was denied.

Also present at the hearing was [REDACTED] MD, an MBHP medical director and board-certified psychiatrist. [REDACTED] testified that she also had a role in reviewing the appellant's PA request. She explained that MBHP determines medical necessity based on the least restrictive level of service under which a child can meet their goals and make progress in treatment. While accessing about 15 hours per week, the appellant was still making progress and acquiring skills. Based on that past utilization, an increase was not medically necessary. If the data showed an uptick in maladaptive behaviors, a change in skill acquisition, or regression, an increase in the level of service might be considered if there was data to support it; however, here there was no such supporting evidence.

Through oral testimony and documentary submissions, the appellant's representatives from ABI testified as follows: the appellant demonstrates significant deficits in the following areas: nonverbal communicative behavior; social-emotional reciprocity, and developing and maintaining relationships. Ex. 6 at 2. These deficits directly impact his ability to effectively communicate, socialize, and adapt to his environment. *Id.* ABA services are essential for addressing these needs, and increasing the appellant's independence and overall quality of life. *Id.* Addressing these needs now will allow for ABA services to be faded systematically and reduced in intensity across the next several authorization periods in accordance with his progress. *Id.* The appellant's attendance issues have been addressed. Last year, he was absent due to frequent illnesses; however, since the start of the most recent authorization period (May 22, 2025 to November 22, 2025), he has shown a significant increase in attendance. *Id.* He has

attended 96% of scheduled sessions (117 of 122 sessions) and only cancelled five sessions, all with documented reasons, such as doctor's notes. *Id.* ■ also developed an action plan with his caregiver requiring at least 80% attendance with medical documentation for any absences. *Id.* This plan has been successful, and barriers to attendance have been resolved, demonstrating readiness and ability to access the full 30 hours per week. *Id.*

■ testified that it began providing the appellant with 10 additional hours per week of direct pro bono because they felt that 30 hours per week was medically necessary and they believed it was ethically not appropriate to reduce him to 20 hours per week. *Id.* While he has made slow progress towards his goals, his needs remain significant and require greater intensity of services. *Id.* ■ submitted data to reflect the appellant's progress while receiving 30 hours per week (from May 22, 2025 through November 22, 2025) compared to when he had 20 hours per week (from November 22, 2024 to May 22, 2025). *Id.*

■ testified that when the appellant experienced inconsistency in services due to frequent illness, his progress was minimal. Since receiving consistent 30 hours per week of direct ABA services, he has begun demonstrating meaningful progress in skill acquisition. *Id.* at 6. Reducing his hours at this stage would place him at high risk of regression. He continues to require substantial support with following simple directions, managing transitions, tolerating denied access, and developing functional communication with others. *Id.* ■ acknowledged that the appellant was still making progress at 20 hours per week, but not substantial enough to reduce services. They follow Council of Autism Service Providers (CASP) guidelines which state that ethically they cannot use evidence of failure at a lower service intensity level in order to argue for services at a higher intensity level. This is why they provided the pro bono 10 hours per week. While he was making progress at the 15-20 hours per week, it was incredibly slow. Their evidence shows how much more progress he can make at 30 hours per week. He has no meaningful communication system and he is engaging in challenging behaviors that pose safety risks. They don't want these services for him long-term and want to titrate him, but for at least the next six months he needs this level of service for his quality of life and independence.

MBHP's care manager responded that it is familiar with CASP; however, it does not use CASP as part of its review process. It uses its medical necessity guidelines and performance specs. She had carefully examined the appellant's clinical record after reviewing that the appellant had been accessing 15 hours per week direct consistently for over a year. She compared and contrasted the different data that had been submitted to MBHP by the appellant's ABA provider. The progress demonstrated by the ABA provider through the data submitted shows that the appellant had been making steady progress on all goals, skill acquisition, and maladaptive behaviors at the 15 hours. There was no data showing that the appellant was not making meaningful progress while accessing the 15 hours. ■ noted that more hours does not necessarily equal better outcomes. MBHP looks at the least restrictive level of service at which the appellant can make progress. MBHP has a year's worth of data showing that the appellant did make progress when averaging about 15 hours per week of direct ABA services.

Findings of Fact

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

1. The appellant is a minor MassHealth member with a diagnosis of autism spectrum disorder.
2. The appellant's behavioral health services are managed through MBHP.
3. On August 7, 2025, MBHP received a request from appellant's provider to add 2 hours per week of supervision (CPT code 97155) and 10 hours per week of direct ABA therapy (CPT code 97153) to the existing authorization for 20 hours per week of direct ABA therapy services and 4 hours per week of supervision.
4. On August 20, 2025, MBHP denied the request.
5. On October 7, 2025, MBHP received a request for a Level 1 Internal Member Appeal of the denied 2 hours per week of supervision and 10 hours per week of direct ABA therapy.
6. Following a review of the clinical record, MBHP issued a Level 1 Internal Appeal determination on October 20, 2025, upholding the denial of additional hours because the clinical information provided did not meet medical necessity criteria to justify the increase.
7. On October 28, 2025, the appellant timely appealed the Level 1 denial to the Board of Hearings.
8. Based on available data from the past year, the appellant was accessing an average of 1.8 hours per week of supervision and 15 hours per week of direct 1:1 ABA services. During that time, he demonstrated making progress in skill acquisition, as well as a decrease in maladaptive behaviors, while averaging 15 hours per week direct.
9. The appellant's provider provided information showing that the appellant's attendance has improved since May 2025. They acknowledged that the appellant made progress while accessing 15-20 hours per week; however, they stated that he made greater, more meaningful progress at 30 hours per week.
10. MBHP will authorize the least restrictive level of services through which a child can reasonably be expected to meet their treatment goals.

Analysis and Conclusions of Law

The Massachusetts Behavioral Health Partnership (MBHP) contracts with the Executive Office of Health and Human Services (EOHHS) to manage the provision of behavioral health care services to MassHealth members on a capitated basis. See 130 CMR 501.001. Under Section 2.6 of its vendor contract with EOHHS, MBHP must “[a]uthorize, arrange, coordinate, and provide to Covered Individual all Medically Necessary [behavioral health] Covered Services listed in Appendix A-1, in accordance with the requirements of the Contract, and in an amount, duration, and scope that is no less than the amount, duration, and scope for the same services furnished to Members under MassHealth fee-for-service as set forth in 42 CFR 440.230, and, for Covered Individuals under the age of 21, as set forth in 42 CFR subpart B.” See *MassHealth Behavioral Health Vendor Contract (“MBVC”)*, § 2.6(A)(1), p. 67.²

A review of Appendix A-1, as referenced in the above provision, indicates that MassHealth covers medically necessary applied behavior analysis (ABA) services for members under 21 years of age who are enrolled in Standard, CommonHealth, or Family Assistance, defined as follows:

A MassHealth service that focuses on the analysis, design, implementation, and evaluation of social and other environmental modifications to produce meaningful changes in human behavior. This service provides for the performance of behavioral assessments; interpretation of behavior analytic data; development of a highly specific treatment plan; supervision and coordination of interventions; and training other interveners to address specific objectives or performance goals in order to treat challenging behaviors that interfere with a youth’s successful functioning.

See Appendix A-1, *MBVC*; see also 101 CMR 358.02.

Through its contract with MassHealth, MBHP may place appropriate limits on covered behavioral health services based on medical necessity or utilization control, “provided that the furnished services can reasonably be expected to achieve their purpose.” *Id.* at § 2.6(C)(a). This includes the ability to publish clinical criteria guidelines, subject to required standards, to determine the most clinically appropriate and necessary level of care, and intensity of services, to ensure the provision of medically necessary services. *Id.* at § 1.1, p. 6.

MassHealth, through its prior authorization process determines whether a service is “medically necessary” if:

- 1) it is reasonably calculated to prevent, diagnose, prevent worsening of, alleviate, correct, or cure conditions in the member that endanger life, cause

² A copy of the executed contract is available online, at:

<https://www.mass.gov/doc/masshealth-managed-behavioral-health-vendor-contract/download>

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 Division. Services that are less costly to the Division include, but are not limited to, health care reasonably known by the provider or identified by the Division 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.

See 130 CMR 450.204(A).

Additional requirements about the medical necessity of MassHealth services are contained in other MassHealth regulations and medical necessity and coverage guidelines. See 130 CMR 450.204(D). MBHP's Medical Necessity Guidelines for ABA services, developed in accordance with 130 CMR 450.204, establish the following admission and continuing treatment criteria:

All of the following criteria are necessary for admission:

1. The Member has a definitive diagnosis of an Autism Spectrum Disorder (DSM-5-TR) and is under the age of 21.
2. The diagnosis in (1) above is made by a licensed physician or psychologist experienced in the diagnosis and treatment of autism with developmental or child/adolescent expertise.
3. The child or adolescent has received a comprehensive diagnostic and/or functional assessment (e.g., ABLLS-R, Vineland-II, ADI-R, ADOS-G, CARS2, VB-MAPP, or Autism Behavior Checklist), which include the following:
 - a. Complete medical history to include pre- and perinatal, medical, developmental, family, and social elements
 - b. Physical examination dated within the past year, which may include items such as growth parameters, head circumference, and a neurologic examination
 - c. Detailed behavioral and functional evaluation outlining the behaviors consistent with the diagnosis of ASD and its associated comorbidities. A diagnostic evaluation must include the scores from the use of formal diagnostic tests and scales as well as observation and history of behaviors. Screening scales such as the MCHAT-R are not sufficient to make a diagnosis and will not be accepted as the only formal scale.
 - d. Medical screening and testing has been completed to identify the etiology of the disorder, rule out treatable causes, and identify associated comorbidities as indicated.
4. The Member exhibits atypical or disruptive behavior that significantly interferes with daily functioning and activities or that poses a risk to the Member or others related to aggression, self-injury, property destruction, etc.

5. Initial evaluation from a licensed applied behavior analyst supports the request for the ABA services.
6. The diagnostic report clearly states the diagnosis and the evidence used to make that diagnosis.

All of the following criteria are necessary for continuing treatment at this level of care:

1. The individual's condition continues to meet admission criteria for ABA, either due to continuation of presenting problems, or appearance of new problems or symptoms.
2. There is reasonable expectation that the individual will benefit from the continuation of ABA services.
3. Assessment from a licensed applied behavior analyst supports the request for ABA services.
4. There is documented skills transfer to the individual and treatment transition planning from the beginning of treatment.
5. Services are not duplicative of services that are part of an Individual Educational Plan (IEP) or Individual Service Plan (ISP) when applicable.

See Ex. 5, p. 5-7.

There is no dispute that the appellant, as a MassHealth beneficiary under the age of 21 with an ASD diagnosis, is eligible for ABA services. The issue on appeal is whether MBHP erred in denying the appellant's request for an additional 10 hours per week of direct ABA services and 2 hours per week of supervision.

Despite the credible testimony and documentation presented by the appellant's representatives at hearing, there is ultimately insufficient evidence to demonstrate that MBHP erred in its October 20, 2025 Level 1 Appeal determination. The appellant's ABA provider argued that the appellant's increased progress at 30 hours demonstrates his need for the additional time requested; however, MBHP will authorize the least restrictive level of services through which the child can reasonably be expected to meet their treatment goals. The appellant's progress with 30 hours does not equate to a lack of progress at 20 hours.

MBHP testified to having performed a thorough review of the documentation submitted by the appellant's ABA provider. Based on its clinical review, MBHP concluded that the appellant was making steady progress while accessing 15 hours per week of direct ABA services consistently for a year. There was no indication that he experienced any regression in skills or new or increased maladaptive behaviors when accessing 15 hours per week.

In consideration of the evidence presented at hearing, the appellant did not establish, by a preponderance of the evidence, that MBHP erred in modifying his request for ABA services. There was insufficient documentation of medical necessity to warrant the requested increase in

services. For these reasons, the appeal is DENIED.


Order for MBHP

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.

Alexandra Shube
Hearing Officer
Board of Hearings


MassHealth Representative: Mass. Behavioral Health Partnership, MBHP Metro Boston Regional Office, Attn: Appeals & Grievance Coordinator, 1000 Washington St., S310, Boston, MA 02118