

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2154327
Decision Date:	10/20/2021	Hearing Date:	7/13/2021
Hearing Officer:	Samantha Kurkijy		

Appearance for Appellant:



Appearance for MassHealth:

Robin Brown, PT



*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:	Approved	Issue:	Prior Authorization Durable Medical Equipment
Decision Date:	10/20/2021	Hearing Date:	7/13/2021
MassHealth's Rep.:	Robin Brown, PT	Appellant's Rep.:	
Hearing Location:	Quincy (remote)		

Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapter 118E, Chapter 30A, and the rules and regulations promulgated thereunder.

Jurisdiction

By notice dated March 12, 2021, MassHealth denied the appellant's prior authorization request for a power seat elevator and power leg rests as not medically necessary (see 130 CMR 409.414(B)(3) and Exhibit 1). Appellant filed this appeal in a timely manner on June 9, 2021 (see 130 CMR 610.015(B) and Exhibit 2). Denial of a request for prior authorization is valid grounds for appeal (see 130 CMR 610.032). The hearing officer has taken some medical leave due to a serious illness, which extends the deadline for rendering a hearing decision pursuant to 130 CMR 610.015(D)(4):

The time limits set forth in 130 CMR 610.015(D)(1) and (3) may be extended for good cause as follows.

(a) When delays are caused by the appellant or his or her appeal representative, the time limits may be extended by the total number of days of such delays, which may include the advance notice period before any rescheduled hearing dates. Such delays include the appellant's delay in the submission of evidence, briefs, or other statements, rescheduling or continuances granted at the request of or for the benefit of the appellant, and any other delays caused by the actions of the appellant or his or her appeal

representative.

(b) When delays occur due to acts of nature, serious illness, or other issues beyond the control of BOH that make a hearing officer unable to render a timely decision, good cause for the extension of the time limits will be deemed to exist.

Action Taken by MassHealth

MassHealth denied the appellant's prior authorization request for a power seat elevator and power leg rests.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 409.414, in determining that a power seat elevator and power leg rests are not medically necessary.

Summary of Evidence

MassHealth was represented by a physical therapist from Optum, the MassHealth contractor responsible for medical necessity decisions on durable medical equipment prior authorization requests. Appellant appeared at hearing with her physical therapist (provider). A summary of testimony and evidence follows.

Appellant submitted a request for prior authorization for a Group 3 power wheelchair that was approved except for a requested power seat elevator and power leg rests (Exhibit 4 at p. 14; Exhibit 1). Appellant timely appealed the denial on June 9, 2021.

MassHealth reviewed the prior authorization request, noting the appellant's diagnosis, and reviewed appellant's functional limitations (*see specifically*, Exhibit 4 at p. 16). MassHealth testified the appellant is requesting the power seat elevator for (1) safety [to align with bed for transfers]; (2) to use computer and to allow positioning. For the power elevating legs, appellant asserted that this feature is necessary for (1) proper use of the recline feature of the chair; (2) to prevent lower extremity pressure sores; and (3) decrease dependent edema.

MassHealth determined that neither the power seat elevator nor the power leg rests are medically necessary, citing 130 CMR 450.204 and 130 CMR 409.414. Appellant has existing equipment and services to provide for the medical needs identified in the submitted documentation. The total cost of the denied equipment is \$2,397.44. (Exhibit 4 at p. 7-9.)¹ At hearing, the MassHealth representative approved the power seat elevator based on the clarification and testimony provided by Appellant and her representative. The remaining issue in dispute was the denial of the power leg

¹ The cost of the VS power elevating leg rest alone is listed on the invoice as \$1,109.60

rest feature.

Appellant is in her [REDACTED] and has been diagnosed with spinal muscular atrophy (SMA) Type II. Appellant is a college student and currently lives with her family due to the pandemic but lives independently while attending school. Appellant is unable to ambulate and requires assistance to maintain unsupported sitting balance. Appellant has contractures in her knees, ankles, and elbows. Though a formal strength evaluation was not provided, documentation shows that Appellant cannot raise her hands above her head but can bring an 8 oz. glass of water to her mouth. Appellant can lift her wrists and forearms against gravity and drive her power wheelchair with her right hand. Appellant requires total assistance to transfer and has a mechanical patient lift in her home. MassHealth has approved items and services to meet Appellant's needs, including a semi-electric hospital bed and 54.5 day/evening PCA hours and 14-night PCA hours per week.

In the accompanying letters of medical necessity, Exhibit 4 at 10-11 and 14-19, Appellant's provider wrote that the requested power leg rests allow Appellant to lower her footrest and take pressure off the bottom of her feet for periods of time. The MassHealth representative explained that the requested power leg rests are an optional upgrade required for power standing. MassHealth approved articulating leg rests, which are the standard of care to address the identified problem. The MassHealth representative testified that there are other commonly prescribed and significantly less costly options to reduce pressure on the feet of power wheelchair users, including but not limited to pads, custom foot boxes, or gel wraps. Appellant's provider also wrote that the power leg rests allow Appellant to increase and decrease hip and knee flexion, which will give Appellant more stability in her spine and better use of her arms. The MassHealth representative argued that the equipment is not FDA approved for this purpose. Other MassHealth reviewing therapists expressed concern that using power leg rests for this purpose could cause more harm, as it would significantly increase Appellant's risk for skin breakdown and wounds due to shearing forces. When asked to elaborate on this concern, MassHealth testified that the raising and lowering of the legs could both cause shearing and rubbing, though this is avoidable if the individual has sensation and can feel it happening. The concern was specifically related to an individual without sensation.

Appellant testified that her physicians and therapists believe that the requested equipment is medically necessary for her physical health and independence and crucial for her life and safety. Specifically, regarding the power leg rests, this feature allows for reduced pressure on dislocated hips and pressure points and is needed for safety, as leg pain and chronic idiopathic edema can become severe. The standard leg rests articulate at random, and Appellant does not have enough strength to push them out. As a result, her legs fall off the sides and sustain bruises.

Appellant's provider explained the difference between the requested power leg rests, which raise vertically, and the standard leg rests, which raise at an angle. The vertical feature allows Appellant to lower a foot plate using a joystick and eventually take all pressure off the foot, leaving the foot to dangle. Appellant can raise the foot plate back up once there is sufficient pressure relief. While the feature is advertised as part of the standing feature, it can be used in this different way for clinical benefit. The standard angle footrest raises the leg to lower edema, but there is never complete pressure relief of the foot. Appellant's provider compared the angled footrest to a standard home recliner. While reclining, the position of the foot on the footplate changes but does not lose contact

with the footplate. This shifting motion can cause shearing on Appellant's foot. While the standard leg rest may be used to raise lower extremities to level of hips or above to relieve edema, it does not meet Appellant's medical needs in terms of need for pressure relief of her feet.

Appellant and her provider argued that shearing of the buttocks is not a concern because Appellant, as an SMA patient, has full sensation, unlike a patient with a spinal cord injury. Therefore, MassHealth's expressed concern over risk for skin breakdown and wounds from shearing forces is misplaced. In fact, Appellant is at greater risk for skin breakdown with the standard angle footrest because she never has full pressure off the foot, as described above. Further, Appellant's provider has educated Appellant to not vertically elevate the footrests to raise the knees above the hips without using the power seat tilt function to change the center of gravity so Appellant can adjust the pressure distribution in her pelvic center hips. Appellant also has contractures and atrophy in her left foot, which is asymmetric to her right foot due to differing leg length. The standard leg rest feature cannot be adjusted to accommodate the asymmetry. The contracture causes Appellant to rest her left foot on the lateral surface, not the plantar surface, which puts her at a higher risk for skin breakdown due to the smaller surface area of pressure. Finally, Appellant and her provider argued that the alternative features MassHealth suggested, such as foot pads, would not provide the necessary relief because any padding causes uneven distribution of pressure forces across the plantar surface of the feet, further complicated if a patient is wearing socks, shoes, or bracing. MassHealth's suggestion of not using the foot plate is not a safe solution, as it raises the risk of reduced venous return blood pooling and edema for a patient without sufficient foot and ankle strength. The foot must be supported, as constant dangling would reduce circulation and increase risk for skin breakdown upon touching a surface. Appellant has the requested power leg rests on her old chair and testified that she experiences significant pain when this feature malfunctions.

Findings of Fact

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

1. MassHealth received a prior authorization request from Appellant's provider for a group 3 power wheelchair with accessories including power seat elevator and power leg rests. Exhibit 4 at 14.
2. On March 12, 2021, MassHealth approved the wheelchair and some accessories, but denied the request for the power seat elevator and power leg rests. Exhibit 1.
3. Appellant filed a timely appeal on June 9, 2021. Exhibit 2.
4. At hearing, MassHealth approved the request for the power seat elevator, leaving only the denial of the power leg rests as the issue in dispute.
5. Appellant is in her [REDACTED] and has diagnoses including SMA Type II. Exhibit 4 at 14.
6. Appellant is unable to ambulate and requires assistance to maintain unsupported sitting

balance. Appellant has contractures in her knees, ankles, and elbows. Appellant cannot raise her hands above her head but can bring an 8 oz. glass of water to her mouth. Appellant can lift her wrists and forearms against gravity and drive her power wheelchair with her right hand. Appellant requires total assistance to transfer and has a mechanical patient lift in her home. Appellant receives PCA assistance with her activities of daily living.

7. Appellant's provider requested the power leg rest feature, writing that it was necessary for lower extremity elevation to prevent pressure sores at the feet and ankles, as Appellant's history included lower extremity position dependent edema. *Id.* at 19.
8. Appellant does not get full pressure relief of her feet using the standard leg rest feature approved by MassHealth, as her foot remains in contact with the footplate while elevated.
9. Appellant has contractures in her left foot and her foot rests laterally on the footplate. Appellant's legs are uneven lengths.
10. Appellant wears socks and shoes when leaving the house.
11. Appellant has full sensation in her buttocks area.

Analysis and Conclusions of Law

MassHealth may only pay medical providers for certain services, including durable medical equipment (DME) and accessories if the particular service is found to be "medically necessary." The regulatory definition of medical necessity is set forth at 130 CMR 450.204, which states in relevant part as follows:

- (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.

Additionally, MassHealth does not pay for DME that

- (1) cannot reasonably be expected to make a meaningful contribution to the

- treatment of a member's illness or injury;
- (2) are more costly than medically appropriate and feasible alternative pieces of equipment; or
- (3) serve the same purpose as DME already in use by the member with the exception of the devices described in 130 CMR 409.413(D)[.]

130 CMR 409.414(B).

MassHealth denied Appellant's request for the power leg rests for two articulated reasons. First, MassHealth determined that less costly options are available to address Appellant's concerns. The standard leg rests elevate to provide relief, and items such as foot pads can be used to address concerns of foot pressure. Appellant and her provider provided credible testimony as to why these alternatives do not address Appellant's clinical concerns. MassHealth also expressed concern that using the power leg rest feature to address hip and knee flexion could significantly increase Appellant's risk for skin breakdown and wounds due to shearing forces on her buttock area. However, MassHealth conceded that these concerns were specifically related to an individual without sensation in the buttock area, which Appellant and her provider disputed.

Appellant and her provider articulated a medical need, foot pressure relief, for the power elevating footrests and rebutted MassHealth's claim that less costly alternatives could address this medical need. Accordingly, this appeal is approved.

Order for MassHealth

Approve the request for power leg rests.

Implementation of this Decision

If this decision is not implemented within 30 days after the date of this decision, you should contact your MassHealth Enrollment Center. If you experience problems with the implementation of this decision, you should report this in writing to the Director of the Board of Hearings, at the address on the first page of this decision.

Samantha Kurkcy
Hearing Officer
Board of Hearings

cc:

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

