

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2178298
Decision Date:	12/22/2021	Hearing Date:	12/06/2021
Hearing Officer:	Paul C. Moore	Record Closed:	12/10/2021

Appellant Representatives:



PACE Representatives:

Carla Recinos-Guzman, supervisor of participant services; Kristen Briggs, occupational therapist; Deborah Ferraro, physical therapist; Daniela Wonson, nurse practitioner; and Melissa Moore, center manager (all from Element Care, and all by telephone)



*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:	Program of All-Inclusive Care for the Elderly (PACE); Durable Medical Equipment
Decision Date:	12/22/2021	Hearing Date:	12/06/2021
PACE Reps.:	Ms. Recinos-Guzman et al.	Appellant Reps.:	
Hearing Location:	Remote		

Authority

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

Jurisdiction

On October 21, 2021, Element Care, MassHealth's agent for participants in the Program of All-Inclusive Care for the Elderly (PACE), informed the appellant that it had processed his internal appeal, and decided that it would uphold the denial of his request for a stairlift (Exh. 1). The appellant filed this appeal with the Board of Hearings (BOH) in a timely manner on October 27, 2021 (130 CMR 610.015(B); Exh. 2). A PACE organization's decision to limit or deny requested services is grounds for appeal to BOH (130 CMR 610.032(B)).¹

¹ Pursuant to 130 CMR 519.007(C)(1), the PACE program is a comprehensive health program that is designed to keep frail, older individuals who are certified eligible for nursing-facility services living in the community.

(a) A complete range of health-care services is provided by one designated community-based program with all medical and social services coordinated by a team of health professionals.

(b) The MassHealth agency administers the program in Massachusetts as the Elder Service Plan (ESP).

(c) Persons enrolled in PACE have services delivered through managed care

(i) in day-health centers;

(ii) at home; and

Action Taken by Element Care

Element Care denied the appellant's internal appeal of a request for a stairlift for use in his home.

Issue

Did Element Care correctly deny the appellant's internal appeal of a request for a stairlift in his home?

Summary of Evidence

Element Care was represented at hearing by its supervisor of participant services, a nurse practitioner, an occupational therapist, a physical therapist, and a center manager, all of whom testified by telephone. The appellant testified on his own behalf by telephone, with the assistance of his daughter, his wife, and a social worker with Element Care.

Element Care's supervisor of participant services testified that the appellant is over age 65, is eligible for Medicaid and Medicare, and is enrolled in Element Care, a PACE provider. She testified that on September 13, 2021, Element Care received a request from the appellant for a stairlift for use in his home. In response to this request, Element Care's interdisciplinary team ("IDT") decided that the appellant should be assessed by one of the organization's occupational therapists. Such an assessment occurred on September 13, 2021. Following this assessment, on September 14, 2021, Element Care sent a written notice to the appellant, stating as follows:

At this time, we have denied your request because the [interdisciplinary] team, in completing our home assessment, has determined that [the appellant's] needs can be met by remaining on the first level of [his] home. Long term, the first floor bathroom is more accessible and more suitable to [the appellant's] needs. In addition, there is adequate space on this floor to accommodate a hospital bed or other sleeping arrangement. Should [the appellant] require additional equipment in the future, the first floor is a better option.

(Exh. 4, p. 3)

The September 14, 2021 notice apprised the appellant of his right to file an appeal of this denial within thirty days (*Id.*).

The appellant notified Element Care that he wished to file an internal appeal. As a result, an Element Care Internal Review Board convened to reconsider the request on October 20, 2021, at which the appellant, his wife, and his daughter were also present. After review, the Internal Review Board [IRB], consisting of a physical therapist, occupational therapist, and nurse practitioner,

(iii) in specialty or inpatient settings, if needed.

concluded that the appellant's internal appeal should be denied, as medical necessity for the stairlift had not been established (Testimony).

On October 21, 2021, Element Care sent another denial letter to the appellant, stating in relevant part as follows:

The IRB has made a final decision to uphold the team's initial decision: to deny [the appellant's] request for a stair lift. The IRB agrees with the IDT for the following reasons:

- Although the stair lift is convenient for the family it is not necessary since [the appellant's needs] can be met on the first floor of [the appellant's] home;
- [The appellant's] mobility at this time is poor and [the appellant] would actually be at risk when using the stair lift due to [his] current cardiovascular and respiratory diagnoses.
- The stair lift would also be physically taxing for [the appellant's] wife and can affect her health as she has her own health concerns.

The IRB also agrees with the recommendation of the team, which is to convert the dining room into the bedroom and allow the team to issue a hospital bed. . . .

(Exh. 1)

It is this October 21, 2021 denial letter that the appellant timely appealed externally to the BOH (Exh. 2).

Element Care's occupational therapist, Ms. Briggs, testified that she and an Element Care physical therapist performed an in-person assessment of the appellant at his home following receipt of the request for a stairlift. The appellant lives with his spouse in a single-family home, and to enter the home, there are several stairs up to a porch, and then one stair from the porch into the home. To get from the first floor to the second floor of the home, there is a set of fifteen interior stairs. On the first floor of the home, there is a full living room, dining room, kitchen and bathroom. On the second floor of the home, there are two bedrooms, a hallway, and a smaller bathroom.² The appellant typically sleeps in an upright position upstairs in one of the bedrooms, on a loveseat with the seat forward resting on an ottoman. However, since returning home from an inpatient hospitalization, the appellant has been sleeping in the living room on the first floor, in a recliner. Ms. Briggs testified that due to the appellant's cardiopulmonary status, his oxygen saturation levels fall to the upper 70s or lows 80s even when ambulating a short distance to the bathroom from the living room on the first floor. Thus, at this time, Element Care does not recommend that the appellant go up and down stairs inside his home (Testimony).

The appellant's medical diagnoses include chronic obstructive lung disease, congestive heart

² The appellant's daughter testified that there are actually three bedrooms on the home's second floor.

failure, chronic kidney disease, coronary artery disease, respiratory failure, edema, dependence on supplemental oxygen, peripheral vascular disease, use of a pacemaker, and atrial fibrillation (Testimony, Exh. 4, pp. 9-10).

Ms. Briggs testified that the appellant only leaves his home for medical appointments at this time. He uses a rollator to ambulate within his home. Element Care believes it is best for the appellant to remain living on the first floor of the home, where the bathroom is larger and can accommodate him and more than one caregiver if needed. In addition, there is sufficient space on the first floor of the home to accommodate a hospital bed for the appellant, as well as any additional assistive devices he may require in the future (Testimony).

Ms. Briggs also noted that the addition of a standard-size stairlift, if approved for the appellant, would narrow and limit the width of the home's interior stairwell for the appellant's spouse to use, and also could impede any emergency services personnel should they need to go upstairs (Testimony).

Ms. Wonson, the nurse practitioner, testified that the appellant was hospitalized from September 16, 2021 through September 23, 2021 for an acute exacerbation of his congestive heart failure. She added that the appellant is on 3 to 4 liters of supplemental oxygen, and has two oxygen tanks in his home (Testimony).

A physical therapist, Ms. Ferraro, testified that the appellant, even when walking as little as five feet on a level surface, desaturates and become short of breath (Testimony).

The appellant's daughter testified by telephone that prior to the appellant being hospitalized in September, 2021, the appellant would spend the day downstairs in the family's home, and ascend the home's interior stairwell very slowly in the evening, with his portable oxygen tank. The appellant would then pause and rest on the landing at the top of the stairs. He would slowly make his way to his bedroom, disconnecting from the portable oxygen tank and switching to another tank. Then he would ambulate slowly to the bathroom. In the bathroom upstairs, the lip of the bathtub is much lower than that in the bathroom on the first floor. As a result, the appellant was able to get into the tub and shower on his own daily. The appellant currently gets assistance from personal care attendants each morning, but otherwise, the appellant's spouse is his primary caregiver (Testimony).

According to the appellant's daughter, since returning home from his hospital stay in September, he has not gone upstairs in the home, and he has had only sponge-baths, since it is difficult for him to get into the tub in the first floor bathroom (Testimony).

The appellant's daughter testified that although Element Care offered the appellant a hospital bed to be used on the first floor, the family declined because the dining room and living room are both used by the entire family, and because the appellant would have no privacy in that location. She indicated that the appellant has slept in an upright posture for years due to a scoliosis diagnosis (Testimony).

Ms. Briggs, the occupational therapist, testified that if the appellant agrees to remain living on the first floor, Element Care would consider installing a tub bench in the first floor bathroom. This equipment would obviate the need for the appellant to step over the relatively high lip of the tub in the first-floor bathroom, as the tub bench bridges the side of the tub (Testimony).

The appellant's spouse testified that she prefers that the appellant sleep on the second floor of the home, where her bedroom is located. If the appellant needs something at night, she is able to hear him. She added that she cannot sleep comfortably on the first floor of the home, due to her own health problems (Testimony).

Ms. Briggs, the occupational therapist, testified that the appellant's family was offered an audio or video "baby monitor" to use if the appellant's spouse continues to sleep upstairs while the appellant is sleeping on the first floor. The family also declined this offer (Testimony).

The appellant's spouse testified that the first floor bathroom has glass doors that are inside the tub, and inquired whether Element Care will pay the cost of removing the glass doors if the appellant agrees to use that bathroom with a tub bench. The physical therapist, Ms. Ferraro, testified that if the family were unable to remove the glass doors on their own, then Element Care's IDT would convene to discuss the request (Testimony).

The appellant's spouse and daughter added that the appellant is depressed spending all day on the first floor of the home (Testimony).

The hearing officer inquired what particular stairlift was requested by the appellant, if its use would be controlled by the appellant, and whether it has any weight restrictions. Ms. Ferraro stated that the appellant did not request a particular stairlift model, noted some models are battery-operated and some are electric, and added all of them have weight limitations. She expressed concern that the appellant's oxygen tank tubing could become caught in the stairlift (Testimony).

The appellant's daughter stated that one of the appellant's oxygen tanks has a short "cord," and that the appellant is very safety-conscious about his oxygen tubing when ambulating (Testimony).

Ms. Ferraro, the physical therapist, stated that the width of the interior stairwell in the appellant's home is 34 inches. Upon inquiry by the hearing officer, the Element Care representatives were unable to state what the width of a standard stairlift is; the hearing officer agreed to leave the record of this appeal open for two days, or until December 8, 2021, for additional evidence about the dimensions of the requested stairlift to be submitted for the record.³ The hearing officer also agreed to keep the record of the appeal open for two additional days for the appellant's representatives to respond whether they agree with the figures provided by Element Care regarding the width of the interior stairwell and the requested stairlift (Exh. 5).

³ The hearing officer explained that he needs this information to evaluate the credibility of Element Care's argument that the addition of a stairlift will unduly narrow passage in the home's interior stairwell.

The appellant's spouse testified that a typical day for the appellant consists of the appellant waking up, ambulating to the first floor bathroom, having coffee with his spouse in the kitchen, taking his medications, being evaluated by the visiting nurse (who monitors his blood pressure and oxygen saturation levels), having breakfast with his spouse in the kitchen, taking a nap in the living room, waking up and having lunch with his spouse, watching television, ambulating to the bathroom once or twice, having tea with his spouse in the late afternoon, watching the news, and then having dinner with his spouse around 5 pm. In the evening, the appellant's spouse assists him to change his clothes and helps him to get ready for bed. The appellant's spouse added that although Element Care has provided a portable urinal for the appellant to use should he be unable to get to the bathroom, the appellant prefers to ambulate to the bathroom to urinate (Testimony).

On December 7, 2021, the hearing officer received via e-mail from the Element Care supervisor of participant services a narrative summary stating, "[o]ccupational therapist reached out to one of Element Care's contracted vendors to request information on potential stairlift model options that the company would use – in order to obtain estimated dimensions for point of reference" (Exh. 6). The attachment affirmed that the width of the interior stairwell in the appellant's home is 34"; and it contains a diagram of a standard model stairlift used on a straight staircase, with information about the minimum open width to the edge of the stairlift footrest (25 5/8"), minimum folded width to stairlift footrest (15 1/8"), and minimum track intrusion into staircase (4.5"). A photo of a person sitting in the stairlift is also included (Exh. 6).⁴

On December 8, 2021, the hearing officer received from the appellant's daughter an e-mail response to Element Care's post-hearing submission, which states in relevant part:

I reviewed the document that Element Care provided with my brother and my parents [including the appellant]. I agreed with the measurements of the stairs. . . They are 34" wide and 15 steps from the bottom landing to the top landing. With the measurements that they provide. . . that would allow plenty of room for mother to also go up and down with stairlift there. Because she would be up before my dad or after my dad. So the [stairlift] wouldn't interfere with her or anyone trying to go up or downstairs. . . .

(Exh. 7)⁵

Findings of Fact

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

1. The appellant is over age 65, is eligible for both Medicare and Medicaid, and is enrolled in PACE, administered in Massachusetts as Element Care (Testimony, Exh. 4).
2. The appellant's diagnoses include chronic obstructive lung disease, congestive heart failure,

⁴ This e-mail was copied to the appellant's daughter who testified at hearing.

⁵ This response was copied to the Element Care supervisor of participant services.

chronic kidney disease, coronary artery disease, respiratory failure, edema, dependence on supplemental oxygen, peripheral vascular disease, use of a pacemaker, and atrial fibrillation (Testimony, Exh. 4, pp. 9-10).

3. The appellant resides with his spouse in a single-family, two-level home in the community (Testimony, Exh. 4).
4. The appellant was hospitalized from September 16, 2021 through September 23, 2021 for an acute exacerbation of his congestive heart failure (Testimony).
5. Since his discharge from the hospital, the appellant has been confined to the first floor of his home, and does not leave his home except to attend physician appointments (Testimony).
6. On September 13, 2021, Element Care received a request from the appellant for a stairlift for use in his home (Testimony).
7. Following receipt of this request, an Element Care occupational therapist assessed the appellant in his home on September 13, 2021 (Testimony).
8. On September 14, 2021, Element Care sent a written notice to the appellant, stating as follows: “At this time, we have denied your request because the [interdisciplinary] team, in completing our home assessment, has determined that [the appellant’s] needs can be met by remaining on the first level of [his] home. Long term, the first floor bathroom is more accessible and more suitable to [the appellant’s] needs. In addition, there is adequate space on this floor to accommodate a hospital bed or other sleeping arrangement. Should [the appellant] require additional equipment in the future, the first floor is a better option” (Exh. 4, p. 3).
9. The appellant notified Element Care that he wished to file an internal appeal of this decision (Testimony, Exh. 4).
10. As a result, an Element Care Internal Review Board convened to reconsider the request on October 20, 2021, at which the appellant, his wife, and his daughter were also present (*Id.*).
11. After review, the IRB, consisting of a physical therapist, occupational therapist, and nurse practitioner, concluded that the appellant’s internal appeal should be denied, as medical necessity for the stairlift had not been established (Testimony).
12. On October 21, 2021, Element Care sent another denial letter to the appellant, stating in relevant part as follows: “The IRB has made a final decision to uphold the team’s initial decision: to deny [the appellant’s] request for a stair lift. The IRB agrees with the IDT for the following reasons:
 - Although the stair lift is convenient for the family it is not necessary since [the appellant’s needs] can be met on the first floor of [the appellant’s] home;

- [The appellant's] mobility at this time is poor and [the appellant] would actually be at risk when using the stair lift due to [his] current cardiovascular and respiratory diagnoses.
- The stair lift would also be physically taxing for [the appellant's] wife and can affect her health as she has her own health concerns.

The IRB also agrees with the recommendation of the team, which is to convert the dining room into the bedroom and allow the team to issue a hospital bed. . . .

(Exh. 1).

13. The appellant filed a timely external appeal of this denial with the BOH (Exh. 2).
14. To get from the first floor to the second floor of the home, there is a set of fifteen interior stairs. On the first floor of the home, there is a full living room, dining room, kitchen and bathroom. On the second floor of the home, there are three bedrooms, a hallway, and a smaller bathroom (Testimony).
15. The appellant typically sleeps in an upright position upstairs in one of the bedrooms, on a loveseat with the seat forward resting on an ottoman (Testimony).
16. The appellant's spouse sleeps in a separate bedroom on the second floor (Testimony).
17. The appellant receives assistance from a personal care attendant (PCA) every morning, and daily visits from a nurse (Testimony).
18. Due to the appellant's cardiopulmonary status, his oxygen saturation levels fall to the upper 70s or lows 80s even when ambulating a short distance to the bathroom from the living room on the first floor (Testimony).
19. The appellant ambulates via rollator with an oxygen tank and is on 3 to 4 liters of supplemental oxygen (Testimony).
20. There is sufficient space on the first floor of the home, either in the living room or dining room, to accommodate a hospital bed for the appellant, but the appellant's family has declined this offer (Testimony).
21. The first floor bathroom is larger than the second floor bathroom, and could accommodate the appellant, two caregivers and additional assistive devices (Testimony).
22. A bathtub in the first floor bathroom has a high lip, which the appellant cannot step over (Testimony).
23. The second floor bathroom is smaller and can fit only two persons comfortably, but the bathtub has a low lip (Testimony).
24. The appellant's spouse prefers to sleep on the same floor as the appellant so she can hear him if

- he needs her assistance (Testimony).
25. The appellant's spouse has difficulty sleeping on the first floor of the home due to her health issues (Testimony).
 26. Element Care offered the appellant's spouse an audio or video "baby monitor" to assist if the appellant's spouse is sleeping on the second floor while he is sleeping on the first floor, but the appellant's spouse declined this offer (Testimony).
 27. Element Care has also offered the use of a tub bench to be used in the first floor bathroom to bridge the high lip of the bathtub (Testimony).
 28. Since his discharge from the hospital, the appellant has received sponge-baths only, since he cannot safely access the s hower in the first floor bathroom (Testimony).
 29. The appellant would prefer a shower to a sponge-bath (Testimony).
 30. Element Care is concerned that the addition of a stairlift in the appellant's home would unduly narrow the passage of the interior stairwell for both the appellant's spouse and any emergency services personnel who may need to access the second floor (Testimony, Exh. 4).
 31. The width of the appellant's home's interior stairwell is 34 inches (Exhs. 4, 6 and 7).
 32. A standard-size stairlift used on a straight staircase has a minimum open width to the edge of the stairlift footrest of 25 5/8", a minimum folded width to the stairlift footrest of 15 1/8", and a minimum track intrusion into staircase of 4.5" (Exh. 6).

Analysis and Conclusions of Law

MassHealth regulations at 130 CMR 519.007(C), "Individuals Who Would be Institutionalized," states as follows:

- (C) Program of All-Inclusive Care for the Elderly (PACE).
- (1) Overview. The PACE program is a comprehensive health program that is designed to keep frail, older individuals who are certified eligible for nursing-facility services living in the community.
- (a) A complete range of health-care services is provided by one designated community-based program with all medical and social services coordinated by a team of health professionals.
- (b) The MassHealth agency administers the program in Massachusetts as the Elder Service Plan (ESP).
- (c) Persons enrolled in PACE have services delivered through managed care
- (i) in day-health centers;
 - (ii) at home; and

(iii) in specialty or inpatient settings, if needed.

(2) Eligibility Requirements. In determining PACE eligibility, the MassHealth agency counts the income and assets of only the applicant or member regardless of his or her marital status. The applicant or member must meet all of the following criteria:

(a) be 55 years of age or older;

(b) meet Title XVI disability standards if 55 through 64 years of age;

(c) be certified by the MassHealth agency or its agent to be in need of nursing-facility services;

(d) live in a designated service area;

(e) have medical services provided in a specified community-based PACE program;

(f) have countable assets whose total value does not exceed \$2,000 or, if assets exceed these standards, reduce assets in accordance with 130 CMR 520.004: *Asset Reduction*; and

(g) have a countable-income amount less than or equal to 300 percent of the federal benefit rate (FBR) for an individual.

(3) Income Standards Not Met. Individuals whose income exceeds the standards set forth in 130 CMR 519.007(C)(2) may establish eligibility for MassHealth Standard by meeting a deductible as described at 130 CMR 520.028: *Eligibility for a Deductible* through 520.035: *Conclusion of the Deductible Process*.

Element Care administers PACE on behalf of MassHealth, and is MassHealth's agent. As such, Element Care is bound to follow MassHealth laws and regulations, as well as federal laws and regulations governing PACE.

Pursuant to 130 CMR 450.204, the MassHealth All Provider Manuals, MassHealth 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 MassHealth. Services that are less costly to MassHealth include, but are not limited to, health care reasonably known by the provider, or identified by MassHealth 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. A provider must make those records, including medical records, available to the MassHealth agency upon request. (*See* 42 U.S.C. 1396a(a)(30) and 42 CFR 440.230 and 440.260.)

(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)

Next, pursuant to federal regulations applicable to state-operated PACE programs, 42 CFR § 460.92 enumerates “Required Services,” as follows:

(a) The PACE benefit package for all participants, regardless of the source of payment, must include the following:

(1) All Medicare-covered services.

(2) All Medicaid-covered services, as specified in the State's approved Medicaid plan.

(3) Other services determined necessary by the interdisciplinary team to improve and maintain the participant's overall health status.

(b) Decisions by the interdisciplinary team to provide or deny services under paragraph (a) of this section must be based on an evaluation of the participant that takes into account:

(1) The participant's current medical, physical, emotional, and social needs; and

(2) Current clinical practice guidelines and professional standards of care applicable to the particular service.

(Emphasis added)

The state Medicaid program (known in Massachusetts as MassHealth) does cover the cost of durable medical equipment, which is defined at 130 CMR 409.402 as follows:

equipment that

(1) is used primarily and customarily to serve a medical purpose;

(2) is generally not useful in the absence of disability, illness or injury;

(3) can withstand repeated use over an extended period; and

(4) is appropriate for use in any setting in which normal life activities take place, other than a hospital, nursing facility, ICF/IID, or any setting in which payment is or could be made under Medicaid inpatient services that includes room and board, except as allowed pursuant to 130 CMR 409.415 and 130 CMR 409.419(C).

The requested stairlift is an example of the type of DME MassHealth may cover if medically necessary, subject to a prior authorization request, as set forth at 130 CMR 409.418.

The issue at hand is whether the requested stairlift is medically necessary for the appellant. The record shows that the appellant is not able to ambulate even on flat surfaces, due to his cardiopulmonary diagnoses, for more than a few feet without becoming winded, and desaturating. There was no testimony or documentary evidence that his health is expected to improve. The appellant argues that he would like to sleep on the second floor of his home, to be near his spouse, and to be able to comfortably access a bathroom where he can take a full shower. He asserts that the stairlift will facilitate greater mobility within his home.

Understandably, the appellant would like to access the second floor of the home for many reasons. However, it is not clear that the appellant's request for the stairlift is based on medical necessity, or whether it is merely for convenience or preference.

Element Care's rationale for denying the request is that the appellant has access to a bathroom, kitchen and other rooms on the first floor of the home, where his medical needs may be met. Other assistance devices, if needed by the appellant in the future, may be accommodated in the first floor bathroom which is larger than the second floor bathroom. Element Care asserts that the appellant may be at greater risk when using the stairlift. Element Care also posits that the addition of a standard stairlift, with a minimum open width to the edge of the stairlift footrest of 25 5/8" and a minimum track intrusion of 4.5" into the staircase, will unduly narrow the safe passage of persons (including the appellant's spouse and family members) up and down the interior stairwell (measuring 34" in width). It is abundantly clear that the stairlift, if approved, would narrow the interior stairwell passage to about 5 or 6 inches at most.

The hearing officer agrees that the requested stairlift, while convenient for the appellant, is not medically necessary for him at this time; as stated at 130 CMR 450.204(A)(2), above, there is another medical service or site of service, comparable in effect, available, and suitable for appellant, that is more conservative and/or less costly than the requested stairlift. That alternative site of service is the first floor of the appellant's home.

Therefore, this appeal is DENIED.

Order for Element Care

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.

Paul C. Moore
Hearing Officer
Board of Hearings

cc: [REDACTED]
[REDACTED]