

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2178959
<b>Decision Date:</b>	2/10/2022	<b>Hearing Date:</b>	01/07/2022
<b>Hearing Officer:</b>	Casey Groff		

**Appearance for Appellant:**



**Appearance for MassHealth:**

Robert Morris, MassHealth Transportation  
Authorization Unit



*The Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
Office of Medicaid  
Board of Hearings  
100 Hancock Street, Quincy, Massachusetts 02171*

# APPEAL DECISION

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Transportation Services
<b>Decision Date:</b>	2/10/2022	<b>Hearing Date:</b>	01/07/2022
<b>MassHealth's Rep.:</b>	Robert Morris	<b>Appellant's Rep.:</b>	Guardian/Mother
<b>Hearing Location:</b>	Remote	<b>Aid Pending:</b>	No

## Authority

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

## Jurisdiction

Through a notice dated November 17, 2021, MassHealth denied Appellant's request for medical transportation services. See Exhibit 1, p. 3. On November 29, 2021, Appellant's mother/guardian filed a timely appeal on behalf of Appellant disputing the agency's decision. See 130 CMR 610.015(B); Exhibit 2. Denial of a request for medical transportation is a valid basis for appeal. See 130 CMR 610.032.

## Action Taken by MassHealth

MassHealth denied Appellant's request for medical transportation because it sought transportation to a provider that did not contract with MassHealth.

## Issue

The appeal issue is whether MassHealth properly denied Appellant's request for medical transportation.

## Summary of Evidence

A representative from the MassHealth Transportation Authorization Unit appeared at the hearing telephonically and testified as follows: MassHealth received a Provider Request for Transportation (PT-1) on behalf of Appellant seeking authorization for medical transportation to Northeast Arc, located in Peabody, Massachusetts. On November 17, 2021, MassHealth denied the request because it determined that Northeast Arc is not a provider that participates with MassHealth. See Exh. 1, p. 3. The MassHealth representative explained that pursuant to program regulations, MassHealth only provides transportation services to bring members to-and-from their MassHealth covered services. Because Northeast Arc is not a contracted MassHealth provider - and cannot bill MassHealth for services rendered to Appellant - MassHealth will not cover transportation services to this location.

In response, Appellant's mother/legal guardian testified that Appellant is an adult under the age of 30 and has a rare genetic condition called Prader-Willi Syndrome (PWS). PWS affects a part of the brain which prevents the person from ever feeling satiated. As a result, they are always hungry and in search of food. Without proper environmental supports and dietary measures, people with this condition, such as Appellant, will eat themselves to death. For these reasons, Appellant requires constant supervision, proper environmental supports, and specific dietary measures. MassHealth offers the only transportation service that can meet Appellant's unique needs.

Prior to March 2020, Appellant resided at a group home through the Department of Developmental Services (DDS). The group home would provide transportation to take Appellant to and from Northeast Arc for community day programs and services. Once she left the group home, DDS no longer provided transportation to Northeast Arc. Appellant has participated in the program for the last three years and it is vital to her health. There are no similar programs available. This program is designed to accommodate her unique needs; there are minimal number of staff and participants, and the facility does not have a cafeteria or food that she can readily access.

Appellant's mother testified that since she left the group home, they have unsuccessfully tried other transportation services, such as ride-shares, which all allow Appellant to stop for food along the route and are therefore unsafe for her to use. In the meantime, Appellant's mother/legal guardian has been driving her to the program; however, this not sustainable. Appellant attends the program two-days per week, and it is not close to their home. MassHealth provides the only transportation service that guarantees Appellant's safe transport to-and-from the program without the ability to stop for food. As a MassHealth member, Appellant should be entitled to this medically necessary service.

In response, the MassHealth representative explained that there are unfortunately no exceptions to the regulatory requirement that would otherwise permit transportation to a non-MassHealth provider. MassHealth, however, would cover the transportation for Appellant to attend a different day program that so long as it is contracted with MassHealth.

## **Findings of Fact**

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

1. MassHealth received a Provider Request for Transportation (PT-1) on behalf of Appellant seeking authorization for medical transportation to Northeast Arc, located in Peabody, Massachusetts.
2. Appellant is an adult MassHealth member under the age of [REDACTED] and has a rare genetic condition called Prader-Willi Syndrome
3. As a result of her condition, Appellant is unable to control her food intake and requires proper environmental supports, dietary measures, and constant supervision to prevent overconsumption.
4. Appellant attends a day-program at Northeast Arc two-times per week.
5. The program at Northeast Arc provides the required environmental supports and supervision Appellant needs to ensure she is protected from her compulsion to overeat.
6. Northeast Arc is not a MassHealth contracted provider.
7. On November 17, 2021, MassHealth denied Appellant's transportation request because Northeast Arc was not a provider that participates with MassHealth.

## Analysis and Conclusions of Law

This appeal addresses the issue of whether MassHealth erred in denying Appellant's request for transportation services to a non-MassHealth provider.

Regulations at 130 CMR 407.411 address transportation utilization restrictions as follows:

(A) Covered Services. The MassHealth agency pays for transportation services that meet the requirements of 130 CMR 407.000 only when such services are covered under the member's MassHealth coverage type and ***only when members are traveling to obtain medical services covered under the member's coverage type (see 130 CMR 450.105).***

***(Emphasis added.)***

In this instant case, Appellant requested transportation to Northeast Arc - a facility that offers a day program that Appellant attends twice per-week. Because Northeast Arc is not a MassHealth provider, any such service it provides to Appellant is not covered (i.e. reimbursable) under her MassHealth coverage type. See id. MassHealth regulations unambiguously prohibit coverage of transportation services unless used for traveling to a MassHealth covered medical service. Despite Appellant's compelling testimony regarding her need for this program, there is no regulatory

exception to otherwise permit transportation to a non-MassHealth provider. For these reasons, MassHealth did not err in denying Appellant's request for transportation services to Northeast Arc.

This appeal is DENIED.

Any argument made by Appellant about the fairness or sufficiency of the controlling regulations cannot be addressed here. If Appellant wishes to seek judicial review of the legality or sufficiency of any MassHealth regulations, she must do so in accordance with 130 CMR 610.092.<sup>1</sup>

## **Order for MassHealth**

None.

## **Notification of Your Right to Appeal to Court**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court, within 30 days of your receipt of this decision.

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Casey Groff  
Hearing Officer  
Board of Hearings

cc:

MassHealth Representative: Robert Morris, MAXIMUS, 55 Summer St., 8th Fl., Boston, MA 02110

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<sup>1</sup> 130 CMR 610.082 (C) ("Basis of Fair Hearing Decisions") states in pertinent part:(2) Notwithstanding 130 CMR 610.082(C)(1), the hearing officer shall not render a decision regarding the legality of federal or state law including, but not limited to, MassHealth's regulations. If the legality of such law or regulations is raised by the appellant, the hearing officer shall render a decision based on the applicable law or regulation as interpreted by MassHealth. Such decision shall include a statement that the hearing officer cannot rule on the legality of such law or regulation and shall be subject to judicial review in accordance with 130 CMR 610.092.