

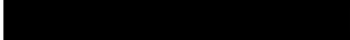
**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2179406
Decision Date:	4/8/2022	Hearing Date:	02/08/2022
Hearing Officer:	Scott Bernard		

Appearance for Appellant:



Appearance for MassHealth:

Elizabeth Miner OT/L *via* 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:	Approved	Issue:	Durable Medical Equipment (DME)
Decision Date:	4/8/2022	Hearing Date:	02/08/2022
MassHealth's Rep.:	Elizabeth Miner OT/L	Appellant's Rep.:	
Hearing Location:	Quincy Harbor South		

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 15, 2021, MassHealth denied the appellant's PA request for a patient lift system because MassHealth determined that it was more costly than other options. (See 130 CMR 409.405, 409.414, and Exhibit (Ex.) 1). The appellant filed this appeal in a timely manner on December 10, 2021. (See 130 CMR 610.015(B) and Ex. 2). Denial of assistance is valid grounds for appeal. (See 130 CMR 610.032).

The hearing was initially scheduled for January 11, 2022. (See Ex. 3). On January 11, 2022, the appellant's representative informed the Board of Hearings that she was out of the country because of a family emergency. The Board of Hearings therefore rescheduled the hearing to February 8, 2022. (Ex. 6).

Action Taken by MassHealth

MassHealth denied the appellant's request for a patient lift system.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 409.000 *et seq.*, in determining that there were less costly alternatives.

Summary of Evidence

The MassHealth representative testified to the following. MassHealth received a PA request for a Trolley Molift Nomad ceiling lift (the denied lift or the lift), which National Seating and Mobility (the provider) submitted on behalf of the appellant on November 8, 2021. (Ex. 7, p. 3). MassHealth issued a timely notice on November 15, 2021 denying the PA request for the lift. (Ex. 1; Ex. 7, pp. 4-6). The MassHealth representative stated that MassHealth denied the PA request because the provider did not establish that there was a medical necessity for the device requested. The MassHealth representative stated that the cost of the lift was \$14,623.80 *per* the work order the provider submitted. (Ex. 7, p. 3). The MassHealth representative stated that MassHealth had included an illustration of the lift as well as the lift's schematics in the materials it submitted to the Board of Hearings. (Ex. 7, pp. 9, 35-36). The schematic shows that the lift would have a continuous rail from the appellant's bed to the couch in living room, with a branch into the bathroom that then separated to allow access to the toilet and shower. (Ex. 7, p. 9). The MassHealth representative stated that in October 2021 the provider previously submitted a PA request for DME (P212850113), which included the lift. The MassHealth representative stated that MassHealth denied the lift at that time, while approving other parts of the PA.

The MassHealth representative referred to the letter of medical necessity submitted with the PA request. The letter of medical necessity states that the appellant is an individual over the age of 18 who presents with spastic quadriplegia, history of refractory epilepsy and underlying dysgenetic brain with shunted congenital hydrocephalus, status post ventriculoperitoneal shunt, refractory seizures, developmental delay, oromotor dysfunction, GI reflux post gastrostomy, nystagmus, and sleep apnea. (Ex. 4, p. 11; Ex. 5, p. 11; Ex. 7, p. 11). The appellant is nonverbal but is able to communicate with some simple signs and follow simple on step directions from his mother. (Ex. 4, p. 11; Ex. 5, p. 11; Ex. 7, p. 11). The appellant is enrolled in a specialized school but has been attending virtually because of the COVID-19 pandemic. (Ex. 4, p. 11; Ex. 5, p. 11; Ex. 7, p. 11). The appellant is able to sit at the edge of his bed but requires close supervision or intermittent assistance due to lack of balance reaction or protective responses. (Ex. 4, p. 12; Ex. 5, p. 12; Ex. 7, p. 12). The appellant is non-ambulatory and requires maximum assistance for transfers and transitions between surfaces and positions. (Ex. 4, p. 12; Ex. 5, p. 12; Ex. 7, p. 12).

The MassHealth representative stated that MassHealth has already approved a type of ceiling lift for the appellant. On May 6, 2021, the provider submitted PA P21130000C for a Nomad Complete SW which MassHealth approved on May 10, 2021 (the approved lift). (Ex. 7, pp. 23-32). The letter of medical necessity for that PA request stated that the appellant was too heavy for a safe two-person transfer and that his mother sustained a shoulder injury requiring surgery due to the years of manual transfers. (Ex. 7, p. 29). The appellant did have an Arjo lift, but this was limited in use due to safety moving between rooms and inability to transfer on and off the floor. (Ex. 7, p. 29). A standing lift would not work because of limited space and ability to maneuver in the home. (Ex. 7, p. 30).

The schematic for the approved lift shows that it has three non-continuous tracks: from the appellant's bedroom to the exit of the bedroom, from the toilet to the shower in the bathroom, and from the middle of the living room to the couch. (Ex. 7, p. 27). The appellant continues to have use of the Arjo lift for additional transfers, as well as a complex power wheelchair, which has sit to stand capability. (Ex. 7, p. 29). The MassHealth representative stated that the trolley for the approved lift

can be detached and moved around the house to the separate tracks. The MassHealth representative stated the the trolley weighs 15 lbs. and can be used and operated by a single individual. The cost of the approved lift was \$11,983.44 *per* the provider's quotation dated May 6, 2021. (Ex. 7, p. 24).

The MassHealth representative stated that MassHealth has also approved absorbent diapers and a complex rolling shower and commode for the appellant. MassHealth has also approved 48.25 hours per week and two hours per night of Personal Care Attendant (PCA) services. The appellant's PCA services allow for 670 minutes per school week and 770 minutes per non-school weeks for PCA assistance with transfers and repositioning. The PCA period was valid through January 25, 2022 and is currently in a 90-day extension pending a hearing. The MassHealth representative stated that it is expected that PCA services will be approved moving forward. The MassHealth representative stated that MassHealth made its determination based on 130 CMR 409.414(B), 409.405(C), and 450.204(A)(1) and (2). (Ex. 7, pp. 17-22).

The appellant's representative stated that prior to submitting any of the PA requests for ceiling lifts, she had wanted the provider to request the ceiling lift with the continuous track. The provider told the appellant's representative that MassHealth would not approve this. The provider disregarded what the appellant's representative requested and submitted the PA for the non-continuous lift system, which MassHealth approved.

The appellant's representative stated that the continuous track ceiling lift cost a little less than \$3,000 more than the approved lift. The continuous lift would run directly from the appellant's bed into the bathroom and to the living room. The appellant's representative explained that the non-continuous lift required that she use the appellant's wheelchair to move him between the bedroom and the bathroom. Once in the bathroom, she and the PCA have to lift the appellant and then a single individual places him on the toilet. Even though the bathroom is handicap accessible, only one other person can assist the appellant while he is in the bathroom. With the continuous track, only one person would be required to assist the appellant. It would give the appellant an option to live a meaningful life in his own environment and community. It would allow the appellant to access the various spaces more easily in his home. The continuous lift would also be much safer because it would reduce the number of transfers required to move the appellant within the home.

The appellant's representative stated that the appellant's overall health and wellness has improved greatly since he began attending school remotely but staying home. The appellant's representative also stated, however, that the use of the approved lift presumes that there is a second individual present to assist the appellant's PCA at all times. The appellant's representative stated that she cannot be that second individual since she has a full-time job. The appellant's representative also stated that MassHealth recently reevaluated the appellant's PCA hours and these have been cut to 49 hours of day and evening services per school week, in addition to 2 nighttime hours per night. MassHealth has also cut the number of hours of PCA services the appellant receives for day and evening services during vacation weeks to 34 hours per week, when the appellant requires more services. The appellant's representative stated that she already has her hands full with assisting the PCA when she can, including helping at night. The appellant's representative stated that she sometimes does not sleep for days because the appellant requires monitoring at night because he has sleep apnea. The appellant's representative stated that the appellant requires two people to perform transfers and lifts and it is unreasonable for MassHealth to assume that she will be always present

for necessary transfers. The continuous lift would allow the PCA to safely perform the necessary transfers without the need of another assistance.

The MassHealth representative responded by stating that MassHealth reviews on the information that is provided to it. The MassHealth representative stated that MassHealth reviewed the PA request and determined that the approved ceiling lift was medically appropriate to meet the appellant's needs. The MassHealth representative stated that with the approved ceiling lift, the appellant is able to get out of bed, transfer to the shower chair, roll the shower chair from the bedroom to the bathroom, use the lift in the bathroom to access the commode and the shower and then roll back.

The appellant's representative stated she understood MassHealth's point of view but argued that the transfers were less safe now that MassHealth had cut PCA hours. The appellant's representative stated that she could not be always present to assist the PCA with transfers. The appellant's representative stated that MassHealth had also halved the hours the appellant had for school vacation when he would need more hours. The appellant's representative stated that in particular, the time allotted for transfers was not enough to allow the appellant to be transferred safely unless there were always two people present. The appellant's representative stated that the requested ceiling lift would be sufficient to allow for a one-person transfer by the PCA for the amount of time MassHealth has allotted for transfers. The appellant's representative also stated that she has injured herself in making transfers as the appellant has grown and is now 165 pounds and five feet, eight inches tall. The appellant's representative argued that the difference between the ceiling lift MassHealth approved and the ceiling lift requested was \$3,000. The appellant's representative stated that the requested ceiling lift was not a luxury but would allow the appellant, the PCA, and the appellant's family the easiest and safest way to make the transfers necessary for the appellant to continue living in his home.

Findings of Fact

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

1. The appellant is an individual over the age of 18 who presents with spastic quadriplegia, history of refractory epilepsy and underlying dysgenetic brain with shunted congenital hydrocephalus, status post ventriculoperitoneal shunt, refractory seizures, developmental delay, oromotor dysfunction, GI reflux post gastrostomy, nystagmus, and sleep apnea. (Ex. 4, p. 11; Ex. 5, p. 11; Ex. 7, p. 11).
2. The appellant's representative is presently approximately five feet, eight inches tall and weighs approximately 165 pounds. (Testimony of the appellant's representative).
3. The appellant is nonverbal but is able to communicate with some simple signs and follow simple on step directions from his mother. (Ex. 4, p. 11; Ex. 5, p. 11; Ex. 7, p. 11).
4. The appellant is enrolled in a specialized school but has been attending virtually because of the COVID-19 pandemic. (Ex. 4, p. 11; Ex. 5, p. 11; Ex. 7, p. 11).

5. The appellant is able to sit at the edge of his bed but requires close supervision or intermittent assistance due to lack of balance reaction or protective responses. (Ex. 4, p. 12; Ex. 5, p. 12; Ex. 7, p. 12).
6. The appellant is non-ambulatory and requires maximum assistance for transfers and transitions between surfaces and positions. (Ex. 4, p. 12; Ex. 5, p. 12; Ex. 7, p. 12).
7. MassHealth received a PA request for a Trolley Molift Nomad ceiling lift, which the provider submitted on behalf of the appellant on November 8, 2021. (Ex. 7, p. 3).
8. MassHealth issued a timely notice on November 15, 2021 denying the PA request for the lift. (Ex. 1; Ex. 7, pp. 4-6).
9. MassHealth denied the PA request because the provider did not establish that there was a medical necessity for the device requested.
10. The cost of the lift was \$14,623.80 *per* the work order the provider submitted. (Ex. 7, p. 3).
11. A schematic of the lift shows that the lift would have a continuous rail from the appellant's bed to the couch in living room, with a branch into the bathroom that then separated to allow access to the toilet and shower. (Ex. 7, p. 9).
12. On May 10, 2021, MassHealth approved a PA request for the Nomad Complete SW, which was another type of ceiling lift. (Ex. 7, pp. 23-32).
13. The letter of medical necessity for that PA request stated that the appellant was too heavy for a safe two-person transfer and that his mother sustained a shoulder injury requiring surgery due to the years of manual transfers. (Ex. 7, p. 29).
14. The appellant did have an Arjo lift, but this was limited in use due to safety moving between rooms and inability to transfer on and off the floor. (Ex. 7, p. 29).
15. A standing lift would not work because of limited space and ability to maneuver in the home. (Ex. 7, p. 30).
16. The schematic for the approved lift shows that it has three non-continuous tracks: from the appellant's bedroom to the exit of the bedroom, from the toilet to the shower in the bathroom, and from the middle of the living room to the couch. (Ex. 7, p. 27).
17. The appellant continues to have use of the Arjo lift for additional transfers, as well as a complex power wheelchair, which has sit to stand capability. (Ex. 7, p. 29).
18. The trolley for the approved lift, which weighs 15 pounds, can be detached, and moved around the house to the separate tracks and can be used and operated by one individual. (Testimony of the MassHealth representative).
19. The cost of the approved lift was \$11,983.44 *per* the provider's quotation dated May 6, 2021.

(Ex. 7, p. 24).

20. MassHealth has also approved absorbent diapers and a complex rolling shower and commode for the appellant. (Testimony of the MassHealth representative).
21. The appellant also has PCA services through MassHealth. (Testimony of the MassHealth representative).
22. The PCA services were reevaluated prior to the hearing and the times have been modified downward from previous years. (Testimony of the MassHealth representative; Testimony of the appellant's representative).
23. The non-continuous lift required that the appellant's wheelchair be used to move him between the bedroom and the bathroom and once in the bathroom, two individuals have to lift the appellant and then a single individual places him on the toilet. (Testimony of the appellant's representative).
24. Even though the bathroom is handicap accessible, only one other person can assist the appellant while he is in the bathroom. (Testimony of the appellant's representative).

Analysis and Conclusions of Law

MassHealth does 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. (130 CMR 450.204; see also 130 CMR 409.417(C)). A service is medically necessary if 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 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. (130 CMR 450.204(A)). Medically necessary services must be of a quality that meets professionally recognized standards of healthcare and must be substantiated by records including evidence of such medical necessity and quality. (130 CMR 450.204(B)).

The specific regulations concerning non-covered DME are located at 130 CMR 409.414, and state the following in pertinent part:

MassHealth does not pay for the following:

...

(B) DME that is determined by the MassHealth agency not to be medically necessary pursuant to 130 CMR 409.000, and 130 CMR 450.204: *Medical Necessity*. This includes, but is not limited to, items that:

- (1) cannot reasonably be expected to make a meaningful contribution to the treatment of a member's illness, disability, 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)...

The provider requesting the DME on the MassHealth member's behalf also has the following responsibilities at 130 CMR 409.405:

...

- (E) ensure that the DME provided is from the least costly, reliable source, and are consistent with MassHealth and industry quality standards, given the medical need for which the DME is prescribed and the member's medical condition;

...

MassHealth argued that the requested ceiling lift is not medically necessary for several reasons. The appellant already has a type of ceiling lift, which, when combined with the appellant's power wheelchair and an Arjo lift, is sufficient for the purposes of transferring the appellant within his home. MassHealth further argued that the approved ceiling lift was less costly.

The record, however, evinces several facts that demonstrate that the requested ceiling lift would best serve the appellant's medical needs. The appellant has spastic quadriplegia, which means (amongst other things) he is non-ambulatory and requires maximum assistance for transfers and transitions between surfaces and positions. Although he is able to sit at the edge of his bed, he requires close supervision or intermittent assistance due to lack of balance reaction or protective responses. The appellant's current ceiling lift consists of three non-continuous tracks: from the appellant's bedroom to the exit of the bedroom, from the toilet to the shower in the bathroom, and from the middle of the living room to the couch. MassHealth stated that the current ceiling lift only requires one individual for its operation. The appellant's representative, however, stated (and MassHealth did not dispute) that transferring the appellant into and out of any given portion of the lift is a two-person job. The record shows that the space in the appellant's home is limited. The appellant's representative stated, for instance that only one individual (other than the appellant) can fit in the bathroom to transfer the appellant from his wheelchair to the lift, which does not extend to the door.

The letters of medical necessity submitted with both the approved and denied ceiling lifts stated that the appellant was too heavy for a safe two-person transfer. The appellant's representative (the appellant's mother) testified that the appellant was and five feet, eight inches tall and weighed approximately 165 pounds. Both the letters further stated (and the appellant's representative confirmed) that the appellant's representative sustained a shoulder injury requiring surgery due to the years of manual transfers.¹ Although the appellant receives assistance *via* PCA services, at the time of the hearings, MassHealth had modified the number of hours downward.

What is clear from the record is that the appellant has demonstrated the medical necessity of the

¹ Since MassHealth advanced the fact concerning the appellant's representative's shoulder injury in the hearing packets submitted and testimony without comment, it is taken as undisputed that this is true.

continuous ceiling lift. The continuous ceiling lift would reduce the number of transfers the appellant would require in navigating his home. Since the appellant's representative, who has a history of shoulder injury, and the PCA, who may not be available, would not have to perform as many transfers, it would reduce the risk that the appellant would become injured or not be able to access his home fully and effectively. The cost of the device, though higher than the approved ceiling lift, is only \$2,699.56 higher. This is not an insignificant sum. Given the cost of increased PCA services and injury it is reasonable. The requested DME will likely make a meaningful contribution to the treatment of a member's illness. Furthermore, though more costly than the approved lift, the record shows that it is medically appropriate under the circumstances. The record also shows that the approved lift may not be a feasible alternative piece of equipment at this time. Finally, because the requested lift is a continuous track that allows for navigation of what appears to be at least a large segment of the appellant's home, it does not serve the same function as the approved lift, which is limited to three non-contiguous tracks.

For the above stated reasons, the appeal is APPROVED.

Order for MassHealth

Approve the Trolley Molift Nomad ceiling lift as requested in the PA.

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.

Scott Bernard
Hearing Officer
Board of Hearings

cc:

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