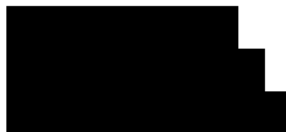


Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2202121
Decision Date:	6/1/2022	Hearing Date:	May 03, 2022
Hearing Officer:	Brook Padgett		

Appellant Representative:

Pro se

MassHealth Representative:

Robin Brown, PT, PhD



*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:	130 CMR 409.414
Decision Date:	6/1/2022	Hearing Date:	May 03, 2022
MassHealth Rep.:	R. Brown, PT, PhD	Appellant Rep.:	Pro se
Hearing Location:	Quincy		

Authority

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

Jurisdiction

The appellant received a notice dated February 23, 2022 denying her prior authorization (PA) request for a high/low activity chair. (130 CMR 450.303). (Exhibit 1).

The appellant filed a timely appeal on March 21, 2022. (130 CMR 610.015(B); Exhibit 2).

Denial of assistance is valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied the appellant's PA request for a high/low activity chair.

Issue

Is MassHealth correct in denying appellant's prior authorization request?

Summary of Evidence

The MassHealth consultant, a licensed physical therapist, testified telephonically that MassHealth received a prior authorization (PA) request on February 25, 2022 submitted on behalf of the appellant for a Rifton Medium Hi-Lo Activity Chair at a cost of \$3,479.43. A letter of medical necessity submitted by the appellant's physical therapist (PT) indicates the appellant is [REDACTED] and has a diagnosis of spastic quadriplegic cerebral palsy, has abnormal muscle tone, decreased strength, decreased range of motion, decreased postural control and decreased endurance. The appellant is dependent for all activities of daily living and requires supports to maintain her sitting balance however is able to walk with assistance. The letter maintains the appellant requires a Medium Rifton Hi-Lo Activity chair because she has outgrown her current activity chair which she has used successfully for six years (MassHealth approved a Hi-Lo Activity chair in 2017 when the appellant was [REDACTED]). MassHealth argued the request for new activity chair was denied because the appellant has been approved two alternative pieces of equipment that are able to serve the same function. The appellant was provided a manual tilt in space (TIS) wheelchair with customized seating system and a power wheelchair with power seating functions. Both wheelchairs were approved with custom tray tables to provide support and opportunities for table-top activities. The PT's letter of medical necessity states the appellant requires a new activity chair to prevent devastating consequences of being confined to a wheelchair. However, in addition to the two wheelchairs the appellant was also approved for a bantam stander last year and documentation indicates the appellant uses her gait trainer and the stander on a daily basis. Additionally, the documentation indicates the appellant is able to pull on and off her youth pull-on absorbents. This indicates the appellant has multiple opportunities to be out of her wheelchair. MassHealth concluded that based on MassHealth regulations the request for a Rifton Activity Chair is not medically necessary as it serves the same purpose as other durable medical equipment the appellant has already been provided.

The appellant's mother testified that the appellant is a smart, vibrant [REDACTED] who has the curiosity and cognitive level of her peers but is trapped in a body which makes her unable to physically interact or fully participate with them. The appellant was approved for an activity chair in 2017 but has since outgrown it. The appellant has a gait trainer and a manual wheelchair at home and a motorized wheelchair that remains at school. The representative maintained her home is not equipped with proper doorways and thresholds so that the appellant requires further training and practice with the motorized wheelchair. The appellant has yet to master her motorized wheelchair and requires more training before she can safely maneuver it throughout her home. The representative stated the appellant frequently uses her stander; however, while it is a good stander it is a very bad chair. It causes compression marks and is not appropriate for everyday use. Further the appellant requires 100% supportive assistance with all activities of daily living. The representative argues the appellant needs the activity chair so she can more fully participate in daily life particularly playing with her siblings. The representative indicated she only asks for what the appellant needs and in this instance, she needs a new activity chair.

Findings of Fact

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

1. The appellant is [REDACTED] and has a diagnosis of spastic quadriplegic cerebral palsy. (Testimony; Exhibit 4).
2. The appellant has abnormal muscle tone, decreased strength, decreased range of motion, decreased postural control, decreased endurance, requires supports to maintain her sitting balance and is dependent for all activities of daily living. (Testimony; Exhibit 4).
3. The appellant is able to walk with assistance using a gait trainer and is able to perform stand pivot transfers with minimal to moderate assistance and stands in her stander daily. (Testimony; Exhibit 4).
4. On February 25, 2022 a PA request was submitted on the appellant's behalf for Rifton Medium Hi-Lo Activity Chair. (Testimony; Exhibit 4).
5. In 2017 MassHealth provided the appellant with a Hi-Lo Activity chair when the appellant was [REDACTED]. (Testimony; Exhibit 4).
6. The appellant has a power wheelchair and a TIS wheelchair. (Testimony; Exhibit 4).
7. The appellant has a bantam stander and documentation indicates she uses her gait trainer and a stander on a daily basis. (Testimony; Exhibit 4).

Analysis and Conclusions of Law

The regulatory definition of medical necessity is set forth at 130 CMR 450.204. 130 CMR 450.204(A) and (B) state as follows:

The MassHealth agency 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 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.

(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.) (*Emphasis added*).

In order to be considered “medically necessary,” a request must meet both prongs of 130 CMR 450.204(A), (1) and (2). While the appellant’s representative has stated the appellant has grown out of her old activity chair and requires a new activity chair so she can more fully participate in daily life, the request for a Rifton Medium Hi-Lo Activity Chair does not meet the second prong of the regulations as there is a less costly alternative available to the appellant. MassHealth has authorized a TIS wheelchair and power wheelchair each with customized seating system and power seating functions, both with custom tray tables to provide support and opportunities for table-top activities. These items were approved by MassHealth to meet the appellant’s medical seating and mobility needs both in her home, school, and community. While the appellant currently leaves her motorized wheelchair in school as she requires more training before she maneuver the chair throughout her home, she also has a TIS wheelchair, a gait trainer, and a stander to aid in her mobility at home. Further the record indicates appellant is able to participate in a number of activities (such as pull on and off her youth pull-on absorbents) without the use of an activity chair. (130 CMR 409.414).¹

The appellant’s current equipment is less costly, available, and comparable in effect to the activities of the requested Rifton Medium Hi-Lo Activity Chair. As a result, the MassHealth’s action is supported by the facts in the record and the regulations, and this appeal must be DENIED.

¹ 130 CMR 409.414: Noncovered Services The MassHealth agency does not pay for the following: (B) DME that is determined by the MassHealth agency not to be medically necessary pursuant to 130 CMR 450.204. This includes but is not limited to items that: (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).

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.

Brook Padgett
Hearing Officer
Board of Hearings

cc: MassHealth Representative: Prior Authorization