

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	DENIED	Appeal Number:	2203077
Decision Date:	7/25/2022	Hearing Date:	06/02/2022
Hearing Officer:	Kenneth Brodzinski		

Appearance for Appellant:

Pro se

Appearance for MassHealth:

Leslie Learned, RN

Interpreter:

Spanish



*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:	Prior Authorization - AFC
Decision Date:	7/25/2022	Hearing Date:	06/02/2022
MassHealth's Rep.:	Leslie Learned, RN	Appellant's 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

Through a notice dated February 8, 2022, MassHealth denied Appellant's request for Level II Adult Foster Care services (Exhibit A). Appellant filed this appeal in a timely manner on April 25, 2022 (see 130 CMR 610.015(B) and Exhibit A). Denial of assistance constitutes valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied Appellant's request for Level II Adult Foster Care services.

Issue

The appeal issue is whether MassHealth properly applied the controlling regulation(s) to accurate facts when it denied Appellant's request for Level II Adult Foster Care services.

Summary of Evidence

Both parties appeared by telephone. MassHealth submitted a packet of documentation including a copy of Appellant's Prior Authorization (PA) request with supporting medical documentation (Exhibit B). Appellant provided only oral testimony with the assistance of a Spanish interpreter and submitted no additional documentation.

MassHealth was represented by a registered nurse who testified that on February 7, 2022, the agency denied a prior authorization request submitted by Family Caregivers on January 27, 2021 to provide Appellant with Level II Adult Foster Care (AFC) services.

According to the written request, Appellant is a [REDACTED] female with a primary diagnosis of carpal tunnel and diabetes mellitus (DM) who seeks daily hands-on care with bathing, dressing, toileting, and transfers as well as cueing and supervision for mobility and eating. The request indicates these services are required due to pain and shortness of breath.

According to medical records submitted with the request, notes from May and September 2021 indicate that Appellant complained of extreme fatigue from her diabetes and acute right foot pain that began two days prior to an examination in September 2021. The foot was X-rayed with negative findings and Appellant was advised to wear supportive shoes. The physical examination in September 2021 also revealed the following: musculoskeletal normal with full range of motion (ROM); neck full ROM; normal gait and coordination; Appellant walks and does yoga for exercise; oxygen saturation 97% on room air, lungs clear; history of carpal tunnel release in August 2018; speaking in full sentences, no coughing or shortness of breath, no wheezing or respiratory distress (Exhibit B, pages 17-39).

The MassHealth representative testified that Appellant's request was denied because the medical documentation did not support the conditions and functional limitations claimed by Appellant in the request that supported the asserted need for AFC Level II services.

The MassHealth representee also testified that Appellant has two prior denials for AFC services and some of the information supplied with this PA requests conflicts with representations made on the earlier two requests.

Appellant testified that she had surgery and therapy for carpal tunnel in her left hand, but there was no improvement. Appellant stated that because of her left hand she needs help to dress. Appellant also testified that she has a machine to help her breathe. Appellant stated that she would like assistance for at least one hour per week to clean her house.

In response, the MassHealth representative stated that the AFC program does not

provide services for house cleaning. MassHealth also noted that Appellant's medical records indicate that she has a sleep apnea machine, but no other respiratory equipment. She noted that the medical records also indicate that Appellant's oxygen saturation was normal at room air.

Appellant next stated that she is unable to wash herself because of her "arm". The MassHealth representative asked Appellant what was wrong with her arm. In response, Appellant stated that she cannot use either of her "hands".

Findings of Fact

By a preponderance of the evidence, this record supports the following findings:

1. On February 7, 2022, the MassHealth denied a prior authorization request submitted by Family Caregivers on January 27, 2021 to provide Appellant with Level II Adult Foster Care (AFC) services.
2. According to the written request, Appellant is a [REDACTED] female with a primary diagnosis of carpal tunnel and diabetes mellitus (DM) who seeks daily hands-on care with bathing, dressing, toileting, and transfers as well as cueing and supervision for mobility and eating.
3. The request indicates the services are required due to pain and shortness of breath.
4. According to medical records submitted with the request, notes from May and September 2021 indicate that Appellant complained of extreme fatigue from her diabetes and acute right foot pain that began two days prior to an examination in September 2021.
5. The foot was X-rayed with negative findings and Appellant was advised to wear supportive shoes.
6. The physical examination in September 2021 revealed the following: musculoskeletal normal with full range of motion (ROM); neck full ROM; normal gait and coordination; Appellant walks and does yoga for exercise; oxygen saturation 97% on room air, lungs clear; history of left carpal tunnel release in August 2018; speaking in full sentences, no coughing or shortness of breath, no wheezing or respiratory distress (Exhibit B, pages 17-39).
7. Appellant has a sleep apnea machine, but no other respiratory equipment.
8. MassHealth denied Appellant's request because the medical documentation did not support the conditions and functional limitations claimed by Appellant.

Analysis and Conclusions of Law

"The burden of proof is on the appealing party to show that the order appealed from is invalid, and we have observed that this burden is heavy" (Massachusetts Inst. of Tech. v. Department of Pub. Utils., 425 Mass. 856, 867, 684 N.E.2d 585 (1997)).

According to section 2(B)(3) of the *MassHealth Guidelines for Medical Necessity Determinations for Adult Foster Care Services*, MassHealth does not cover AFC services nor consider AFC to be medically necessary under certain circumstances including *"when the clinical documentation, including assessments and plan of care to support the need for or continuation of AFC, is missing, insufficient, and/or **inconsistent**"* (emphasis supplied).

MassHealth has demonstrated how Appellant's clinical records are inconsistent with the requested plan of care. The plan of care calls for AFC services to assist Appellant with ADLs such as bathing, dressing, toileting, and transfers as well as cueing and supervision for mobility and eating. The clinical documentation includes physical examination reports prepared within a year of the request. The records indicate normal findings under the review of systems including normal gait and normal ROM. Records also indicate that Appellant walks and does yoga for exercise, had no shortness of breath, and had normal oxygen saturation on room air. These clinical findings are inconsistent with Appellant's PA which asserts pain and shortness of breath. Other than the reported foot pain (with negative X-ray findings) there was nothing in the clinical documentation to support these claims.

At hearing, Appellant's own testimony was confusing and inconsistent with claims of one hand hurting, then it was both hands then it was her arm. She made no assertion that she needed assistance with any ADL other than dressing. In order to qualify for Level II AFC, a member must need hands-on (physical) assistance with at least three of the activities described in 130 CMR 408.416 (130 CMR 408.419(D)(2)(a)).

On this record, there is no basis in fact or law to disturb MassHealth's determination. Appellant has failed to meet her burden; the appeal is DENIED.

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.

Kenneth Brodzinski
Hearing Officer
Board of Hearings

cc:

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