

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision: DENIED

Appeal Number: 2203894

Decision Date: 8/10/2022

Hearing Date: 06/29/2022

Hearing Officer: Kenneth Brodzinski

Appearance for Appellant:



Appearance for MassHealth:

Robin Brown, OTR and Laura Rose, RN



*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 - DME
Decision Date:	8/10/2022	Hearing Date:	06/29/2022
MassHealth's Rep.:	Robin Brown, OTR	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 May 9, 2022, MassHealth denied Appellant's prior authorization request for power wheelchair repairs (Exhibit A). Appellant filed for this appeal in a timely manner on May 20, 2022 (see 130 CMR 610.015(B) and Exhibit A). Denial of a prior authorization request constitutes valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied Appellant's prior authorization request for power wheelchair repairs.

Issue

The appeal issue is whether MassHealth properly applied the controlling regulation(s) to accurate facts when it denied Appellant's prior authorization request for power wheelchair repairs.

Summary of Evidence

Both parties appeared by telephone. MassHealth submitted a packet of documents including a copy of a prior authorization request (Exhibit B). Appellant's only submission was her Fair Hearing Request (Exhibit A).

The MassHealth representative testified that Appellant sought prior authorization to repair a power wheelchair that was provided to her in 2013 at a cost of \$1,853.29. A letter of medical necessity accompanying the request described Appellant's 2013 power wheelchair as being in very poor condition and needing replacement.

MassHealth denied the request because MassHealth already replaced Appellant's 2013 power wheelchair with a new power wheelchair in 2018. The MassHealth representative explained that the agency does not approve equipment that is duplicative or service essentially the same purpose as an existing piece of equipment. The agency also does not maintain or repair equipment that has been retired and replaced or that is duplicative to existing equipment.

Appellant testified that she requires a backup chair when her main chair needs to be fixed or repaired. Appellant testified that this needs to be another power wheelchair because she is not functionally capable of using a manual chair. Appellant testified that she had been using her old 2013 chair as a backup, but it is in poor condition and needs the requested repairs.

In response, the MassHealth representative testified that pursuant to regulation, the agency can only approve manual wheelchairs as secondary mobility devices to compensate for places that a larger power wheelchair cannot go. The MassHealth representative stated there is no requirement in the regulations to provide a backup power wheelchair in any circumstance. The MassHealth representative further testified that it is the obligation of the medical equipment provider to supply members with a "loaner" piece of equipment when the primary equipment is removed from the home for repairs.

Appellant acknowledged that she has not contacted her medical equipment provider to request a loaner power wheelchair. Appellant testified that she has been unable to reach the medical equipment provided by phone despite making multiple attempts. The MassHealth representative stated that she too made multiple attempts to reach out to the medical equipment provided by phone, but could not get through.

The MassHealth representative advised Appellant to contact MassHealth's Office of Long-Term Services and Supports (OLTSS) to assist her with this enforcing her medical equipment provider's obligations. Appellant indicated she would try to obtain the loaner piece of equipment from her provider and to reach out to OLTSS for assistance.

Findings of Fact

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

1. Appellant sought prior authorization to repair a power wheelchair that was provided to her in 2013 at a cost of \$1,853.29.
2. A letter of medical necessity accompanying the request described Appellant's 2013 power wheelchair as being in very poor condition and needing replacement.
3. MassHealth denied the request because MassHealth already replaced Appellant's 2013 power wheelchair with a new power wheelchair in 2018.
4. Appellant requires a backup chair when her main chair needs to be fixed or repaired.
5. Appellant is not functionally capable of using a manual chair.
6. Appellant has been using her old 2013 chair as a backup, but it is in poor condition and needs repair.

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)).

The only back-up for a power wheelchair that MassHealth is allowed to provide is a manual wheelchair (130 CMR 409.413(D)). Otherwise, pursuant to MassHealth regulations, the medical equipment provider bears the responsibility of supplying a MassHealth member with a back-up piece of equipment when the member's equipment must be removed from the home for repair 130 CMR 409.420(B)(C) and (D). MassHealth will cover the cost of the temporary back-up furnished by the provider (Id.).

Appellant has cited no regulation or authority that directs MassHealth to authorize repairs to retired equipment that MassHealth has replaced, such as her 2013 power wheelchair that MassHealth replaced in 2018. On this record, there is no basis in fact or law to disturb MassHealth's determination to deny Appellant's authorization request.

For the foregoing reasons, 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