

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2205265
<b>Decision Date:</b>	9/14/2022	<b>Hearing Date:</b>	08/16/2022
<b>Hearing Officer:</b>	Paul C. Moore	<b>Record Closed:</b>	08/31/2022

**Appellant Representatives:**



**MassHealth Representatives:**

Robin Brown, licensed occupational therapist;  
Monique Racine, licensed respiratory therapist  
(both from Optum, and both by telephone)



*Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
Office of Medicaid  
Board of Hearings  
100 Hancock Street, 6<sup>th</sup> Floor  
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# APPEAL DECISION

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Respiratory Therapy Equipment
<b>Decision Date:</b>	9/14/2022	<b>Hearing Date:</b>	08/16/2022
<b>MassHealth Reps.:</b>	Ms. Brown and Ms. Racine	<b>Appellant Reps.:</b>	Parents
<b>Hearing Location:</b>	Board of Hearings (remote)		

## Authority

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

## Jurisdiction

By notice dated June 22, 2022, MassHealth denied the appellant's PA request for a high-frequency chest wall oscillation air pulse generator system (Exhibit 1). The appellant filed this appeal in a timely manner with the Board of Hearings (BOH) on July 14, 2022 (Exhibit 2). Denial of assistance is valid grounds for appeal to BOH (130 CMR 610.032).

An appeal hearing was held by telephone on August 16, 2022. The hearing officer briefly reopened the record of this appeal on August 31, 2022 pursuant to 130 CMR 610.081 for the submission of clarifying evidence by MassHealth.

## Action Taken by MassHealth

MassHealth denied the appellant's PA request for a high-frequency chest wall oscillation air pulse generator system, or "chest vest," due to a lack of medical necessity.

## Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 450.204, in denying the

appellant's PA request for a chest vest due to a lack of medical necessity.

## Summary of Evidence

A MassHealth representative, a licensed occupational therapist and a consultant with Optum, testified that MassHealth received a PA request on behalf of the appellant from Advanced Respiratory, Inc., a durable medical equipment (DME) provider, on June 21, 2022. The PA request sought MassHealth coverage for a high-frequency chest wall oscillation air pulse generator system, or chest vest, for use by the appellant, who is a child diagnosed with cystic fibrosis who lives with his parents (Exh. 1).

The MassHealth representative noted that MassHealth denied the PA request by notice dated June 22, 2022. The reasons for the denial listed on the denial notice are the following: (1) the [appellant] is stable; (2) current airway clearance regime is working; (3) documents do not indicate a failure of standard treatment; (4) all equipment that may be appropriate and feasible have (*sic*) not been ruled out (Testimony, Exh. 1). Further, the denial notice states, "need well-documented failure of standard treatments to adequately mobilized (*sic*) retained secretions, that member has trialed other alternatives like Acepella (*sic*) and cough assist device which can be considered for airway clearance measures" (Testimony, Exh. 1).

The MassHealth representative testified that the cost of the requested chest vest, if purchased by MassHealth, would be \$10,489.53 (Testimony).

The MassHealth representatives testified that this is the second PA request submitted for the chest vest by the appellant; an earlier request was submitted to MassHealth in March, 2022, and denied by MassHealth for substantially similar reasons (Testimony).

The MassHealth representative testified that an undated letter of medical necessity for the chest vest was submitted with the instant PA request by Ina St. Onge, D.O., a pediatric pulmonologist, at the University of Massachusetts Memorial Health Center ("U.Mass. Memorial"), stating in relevant part:

[The appellant] is a [REDACTED] male patient followed at the U.Mass. Pediatric Pulmonary and Sleep Clinic for a chief diagnosis of cystic fibrosis ('CF'). CF is a progressive, genetic disease that can cause infections in the lung, worsening breathing over time. Due to a dysfunction in the CFTR protein, mucous becomes thick and sticky. This mucous is more likely to linger in the airway, trapping bacteria, causing infections which can be harmful to the lungs.

Airway clearance therapies are crucial in sustaining optimal lung function in patients with CF. Utilizing a vest is considered a standard of care. It assists in mobilizing secretions so that the patient can then cough up and get rid of mucous.

Previously [the appellant] received manual chest physiotherapy by a home physical

therapist three times per week. With his new insurance plan, he is only eligible to get chest PT once weekly which is inadequate. I also noted a 12-point drop in [the appellant's] lung function following a Covid-19 infection, indicating that [the appellant's] current airway clearance is inadequate. He tolerated a [chest vest] trial very well and would significantly benefit from its continued use. Without the vest, [the appellant] is at risk of recurrent respiratory infections, decline in lung function, and risk for hospitalization. . . .

(Exh. 4, p. 9)

In a progress note about the appellant by Dr. St. Onge dated June 16, 2022, following a medical office visit with the appellant, she documented that “[s]ick plan is to increase airway clearance therapy to 3X daily, albuterol before each treatment, hypersal X 2, and pulmozyme X 1. This sick plan would not be able to be reasonably carried out without the Vest” (Exh. 4, p. 10).<sup>1</sup>

The MassHealth representative testified that MassHealth disputes that a chest vest is the standard of care for persons with cystic fibrosis. The MassHealth representative noted that MassHealth adopted Guidelines for Medical Necessity Determination for High Frequency Chest Wall Oscillation Air-Pulse Generator System (Vest) (“guidelines”), effective in July, 2022.<sup>2</sup> According to the guidelines, a chest vest “[delivers] compression pulses to the chest wall through an inflatable vest, which is connected to an air pulse generator. These high frequency compressions lead to changes in airway volume and flow, which helps to loosen and mobilize secretions to the large airways for removal by a strong, effective cough or suctioning procedure. Each typical treatment performed at home lasts 20 -- 30 minutes and consists of short periods (approximately 5 minutes) of vest compression followed by coughing” (Exh. 4, pp. 28-29).

In order for MassHealth to cover the cost of a chest vest, a member must have CF or a similar diagnosis, and there must be a well-documented failure of standard treatment for clearance and mobilization of retained secretions, included but not limited to: (a) suction machine; (b) cough-assist machine; (c) manual chest physiotherapy; (d) manual or electric percussor; (e) positive expiratory pressure devices or flutter valves; or (f) inhaled mucolytics (Exh. 4, p. 30). In addition, according to the MassHealth representative, MassHealth may also cover the cost of a chest vest if there is a “well-documented lack of caregiver ability to perform chest physiotherapy (chest PT) at required frequencies, resulting in recurrent infection or hospitalization related to the underlying disease” (*Id.*).

The MassHealth representative pointed out that Dr. St. Onge did not indicate in her letter of medical necessity, or in subsequent correspondence dated August 10, 2022, whether the appellant has tried any of the alternative airway clearance techniques referred to in the MassHealth guidelines. She noted that MassHealth must also adhere to the general medical necessity regulation located at 130 CMR 450.204(A), which reflects that MassHealth will pay for “medically necessary” treatment or

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<sup>1</sup> “Sick plan” refers to an airway clearance regime on days when the appellant has a symptomatic infection or virus.

<sup>2</sup> These guidelines were effective following the date of the MassHealth denial in this appeal.

services only if there is no other such treatment or service, comparable in effect, available and suitable for the member requesting the treatment or service, that is more conservative or less costly to the MassHealth agency. In this instance, MassHealth determined that there are more conservative, less costly alternative treatments to the chest vest, including, but not limited to, chest physiotherapy, which can mobilize the appellant's excess secretions and facilitate airway clearance. For these reasons, MassHealth denied the instant PA request for the chest vest (Testimony).

A second MassHealth representative, who is a licensed respiratory therapist and consultant with Optum, indicated that one alternative therapy suggested by MassHealth, the Acapella vibratory mucus clearance device works as follows: when a patient exhales into this device, it evokes a vibratory response in the patient's airway, helping to loosen the secretions and mucus and allowing the patient to cough them up (Testimony).<sup>3</sup>

The appellant's parents testified by telephone that in addition to having contracted Covid-19 in January, 2022, the appellant had an exacerbation of his CF in May, 2022. At that time, according to the appellant's mother, he required use of the chest vest three times a day to help clear secretions.<sup>4</sup> This is typical on days when the appellant is ill. The appellant's mother added that the appellant's primary health insurer, Blue Cross/Blue Shield, now authorizes only one chest physiotherapy session per week; the appellant needs at least one chest physiotherapy session per day, according to the appellant's mother. She added that in July, 2022, the staffing agency the family works with was not able to provide an at-home chest physiotherapist for the appellant at all. The appellant's mother testified that she believes MassHealth, the appellant's secondary insurance, does not cover the cost of chest physiotherapy (Testimony).<sup>5</sup>

The appellant's mother inquired whether MassHealth would require the appellant to be ill and hospitalized before approving the chest vest for him (Testimony).

In the past, the appellant's parents were able to conduct chest physiotherapy for the appellant, which involved manually cupping and vibrating the appellant's chest and back to loosen secretions.<sup>6</sup> As he has gotten older, the appellant has become more resistive to their efforts, as well as the efforts of any chest physiotherapist. In March, 2022, the appellant's mother began working outside the home, and thus has decreased availability to perform chest physiotherapy for the appellant in any case. The appellant's mother testified that the Acapella device suggested by MassHealth is useful only if the patient is able to exhale vigorously; when the appellant is ill, or suffering an exacerbation of his CF, he is unable to exert such an effort (Testimony).

The appellant's father added that the Acapella device is not age-appropriate for the appellant (Testimony).

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<sup>3</sup> In a letter dated August 10, 2022, Dr. St. Onge wrote that "oscillating [positive expiratory pressure], such as an acapella. . . is too unreliable at [the appellant's] age, especially during times of illness" (Exh. 5A).

<sup>4</sup> The appellant's parents testified that Advanced Respiratory, Inc. has agreed to allow the appellant to trial the chest vest through the duration of any appeals for coverage of the chest vest.

<sup>5</sup> The MassHealth representative stated she believes MassHealth does, in fact, cover the cost of chest physiotherapy.

<sup>6</sup> Chest physiotherapy is also referred to as chest physical therapy.

The appellant's parents submitted a document created by the National Cystic Fibrosis Foundation reflecting 2020 statistics summarizing what therapies are primarily used by CF patients of all ages, which the hearing officer marked as Exhibit 5B. According to this document, for CF patients ages [REDACTED], the primary modality used for airway clearance is a chest vest (*Id.*).<sup>7</sup>

The appellant's parents testified that neither a suction machine, a positive expiratory pressure device, nor a cough-assist machine have been used for the appellant. The appellant's mother testified that they used a manual percussor for the appellant when he was an infant, but no longer used it once the appellant was about [REDACTED]. The appellant's father testified that any manual therapy modality for airway clearance will not be useful for the appellant, as he is increasingly resistive to those therapies (Testimony).

The appellant was ill in May, 2022 with an infection, for which he was prescribed antibiotics. He is seen at the U.Mass. Memorial CF clinic every three months, at a minimum. He did well when he had Covid-19 in January, 2022, and was not hospitalized. However, since the date of that Covid-19 infection, the appellant has had a modest decrease in his pulmonary function test results (Testimony).

The appellant's mother testified that Blue Cross/Blue Shield also denied the appellant's request for coverage of the chest vest. The appellant's parents have filed an appeal of that decision as well, but have not heard anything to date (Testimony).

When the appellant's parents personally perform chest physiotherapy for the appellant, the appellant first receives a nebulizer treatment for 20 minutes. Then, one of his parents percusses the front of his chest, back (from two different angles), and each side of his chest, respectively, for four minutes each. His parents try to distract the appellant during this process by allowing him to watch an I-pad. The appellant's mother stated it is not reasonable to expect a [REDACTED] child to sit still for one hour each time a treatment is performed. Using the chest vest allows the appellant to be more involved in the process, as he puts the vest on himself, attaches the hoses to the vest, turns the machine on, and is generally an active participant in his therapy (Testimony).

On August 31, 2022, via e-mail to the parties, the hearing officer reopened the record of this appeal for the receipt of additional and clarifying information from MassHealth regarding the MassHealth guidelines.<sup>8</sup> In particular, the hearing officer apprised the parties:

When reviewing the documentation in this appeal, I noted that the MassHealth Guidelines for Medical Necessity Determination for High Frequency Chest Wall Oscillation Air-Pulse Generator System (Vest), cited by MassHealth in its denial, were dated July, 2022.

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<sup>7</sup> Although the precise percentage of children ages 6 to 10 who primarily used a chest vest in 2020 is not evident on the face of the document itself (Exh. 5), the appellant's father testified that the percentage is 92% (Testimony).

<sup>8</sup> Pursuant to 130 CMR 610.081, "Reopening Before Decision: After the close of the hearing and before a decision, the hearing officer may reopen the record or, if appropriate, the hearing if he or she finds need to consider further testimony, evidence, materials or legal rules before rendering his or her decision."

The decision to deny [the appellant] the requested vest was made by MassHealth in June, 2022.

Thus, the July, 2022 medical necessity guidelines would not apply to this case.

[MassHealth representative], was there an earlier version of the MassHealth Guidelines for Medical Necessity Determination for High Frequency Chest Wall Oscillation Air-Pulse Generator System (Vest), effective in June, 2022? I could not locate them on MassHealth's website.

If there is an earlier version, please forward a copy to me and to [the appellant's parents]. . .

(Exh. 6)<sup>9</sup>

On the same date, August 31, 2022, the MassHealth representative responded via e-mail to the hearing officer and to the appellant's father's e-mail address as follows:

The Guidelines I attached to the packet are the first ever publication from MassHealth for the Vests and were in the works for many months prior to publication in early July. The criteria published in the MassHealth Guideline document are the same criteria MassHealth has been using to adjudicate Vest requests since this technology was introduced and closely follows the Medicare LCD guidelines for Oscillating Vests as required in the absence of a published MassHealth Guideline. I included these Guidelines to try help clearly show the thinking that goes into the decision-making process when reviewers adjudicate these requests – my apologies if this has caused confusion.

(Exh. 7)<sup>10</sup>

## Findings of Fact

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

1. The appellant is a child with a diagnosis of cystic fibrosis who lives with his parents in the community (Testimony).

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<sup>9</sup> In this e-mail communication, the hearing officer asked both parties to acknowledge via e-mail that they had received and understood the hearing officer's communication (Exh. 6). Neither party responded to this specific request.

<sup>10</sup> There is no evidence that the appellant is eligible for Medicare. Medicare "LCD" is an abbreviation for "local coverage determination."

2. On June 21, 2022, MassHealth received a PA request on behalf of the appellant from Advanced Respiratory, Inc., a DME provider, seeking coverage for a high-frequency chest wall oscillation air pulse generator system, or chest vest (Exh. 1, Exh. 4).
3. MassHealth denied the PA request by notice dated June 22, 2022, citing the following reasons for the denial: (1) the [appellant] is stable; (2) current airway clearance regime is working; (3) documents do not indicate a failure of standard treatment; (4) all equipment that may be appropriate and feasible have (*sic*) not been ruled out (Testimony, Exh. 1).
4. Further, the denial notice states, “need well-documented failure of standard treatments to adequately mobilized (*sic*) retained secretions, that member has trialed other alternatives like Acepella (*sic*) and cough assist device which can be considered for airway clearance measures” (*Id.*).
5. The appellant, through his parents, filed a timely appeal of this denial with the BOH on July 14, 2022 (Exh. 2).
6. The cost of the requested chest vest, if purchased by MassHealth, would be \$10,489.53 (Testimony).
7. An undated letter of medical necessity for the chest vest was submitted with the instant PA request by Ina St. Onge, D.O., a pediatric pulmonologist, at the University of Massachusetts Memorial Health Center (“U.Mass. Memorial”), stating in relevant part: “[The appellant] is a [REDACTED] male patient followed at the U.Mass. Pediatric Pulmonary and Sleep Clinic for a chief diagnosis of cystic fibrosis (‘CF’). CF is a progressive, genetic disease that can cause infections in the lung, worsening breathing over time. Due to a dysfunction in the CFTR protein, mucous becomes thick and sticky. This mucous is more likely to linger in the airway, trapping bacteria, causing infections which can be harmful to the lungs. Airway clearance therapies are crucial in sustaining optimal lung function in patients with CF. Utilizing a vest is considered a standard of care. It assists in mobilizing secretions so that the patient can then cough up and get rid of mucous. Previously [the appellant] received manual chest physiotherapy by a home physical therapist three times per week. With his new insurance plan, he is only eligible to get chest PT once weekly which is inadequate. I also noted a 12-point drop in [the appellant’s] lung function following a Covid-19 infection, indicating that [the appellant’s] current airway clearance is inadequate. He tolerated a [chest vest] trial very well and would significantly benefit from its continued use. Without the vest, [the appellant] is at risk of recurrent respiratory infections, decline in lung function, and risk for hospitalization. . . .” (Exh. 4, p. 9).
8. MassHealth adopted Guidelines for Medical Necessity Determination for High Frequency Chest Wall Oscillation Air-Pulse Generator System (Vest) (“guidelines”), effective in July, 2022 (Testimony, Exh. 4).
9. According to the guidelines, a chest vest “[delivers] compression pulses to the chest wall



through an inflatable vest, which is connected to an air pulse generator. These high frequency compressions lead to changes in airway volume and flow, which helps to loosen and mobilize secretions to the large airways for removal by a strong, effective cough or suctioning procedure. Each typical treatment performed at home lasts 20 -- 30 minutes and consists of short periods (approximately 5 minutes) of vest compression followed by coughing” (Exh. 4, pp. 28-29).

10. In order for MassHealth to cover the cost of a chest vest, a member must have CF or a similar diagnosis, and there must be a well-documented failure of standard treatment for clearance and mobilization of retained secretions, included but not limited to: (a) suction machine; (b) cough-assist machine; (c) manual chest physiotherapy; (d) manual or electric percussor; (e) positive expiratory pressure devices or flutter valves; or (f) inhaled mucolytics (Exh. 4, p. 30).
11. MassHealth may also cover the cost of a chest vest if there is a “well-documented lack of caregiver ability to perform chest physiotherapy (chest PT) at required frequencies, resulting in recurrent infection or hospitalization related to the underlying disease” (*Id.*).
12. In a letter dated August 10, 2022, Dr. St. Onge wrote that “oscillating [positive expiratory pressure], such as an acapella. . .is too unreliable at [the appellant’s] age, especially during times of illness” (Exh. 5A).
13. The Acapella vibratory mucus clearance device works as follows: when a patient exhales into this device, it evokes a vibratory response in the patient’s airway, helping to loosen the secretions and mucus and allowing the patient to cough them up (Testimony).
14. Dr. St. Onge did not indicate in her letter of medical necessity, or in subsequent correspondence dated August 10, 2022, whether the appellant has tried any of the alternative airway clearance techniques referred to in the MassHealth guidelines (Exh. 4, Exh. 5A).
15. The appellant contracted a Covid-19 infection in January, 2022, but he did well and was not hospitalized (Testimony, Exh. 4).
16. The appellant had a modest decrease in his pulmonary function test results after his Covid-19 infection (Testimony).
17. Chest physiotherapy involves manually cupping and vibrating a patient’s chest and back, as well as cupping and vibrating each side of a patient’s chest, to loosen secretions (Testimony).
18. The appellant typically needs chest physiotherapy once a day (Testimony).
19. On days when the appellant is ill, he requires chest physiotherapy three times a day (Testimony).

20. In July, 2022, the staffing agency the appellant's family works with was not able to provide an at-home chest physiotherapist for the appellant at all (Testimony).
21. A document created by the National Cystic Fibrosis Foundation, reflecting 2020 statistics summarizing what therapies are primarily used by CF patients of all ages, shows that for CF patients ages [REDACTED], the primary modality used for airway clearance is a chest vest (Exh. 5B).
22. The appellant has not tried a suction machine, a positive expiratory pressure device, nor a cough-assist machine in order to assist with airway clearance (Testimony).
23. The appellant's parents used a manual percussor for the appellant when he was an infant, but stopped using it when he was about 18 months old (Testimony).
24. When the appellant's parents personally perform chest physiotherapy for the appellant, the appellant first receives a nebulizer treatment for 20 minutes. Then, one of his parents percusses the front of his chest, back (from two different angles), and each side of his chest, respectively, for four minutes each (Testimony).
25. Since March, 2022, both of the appellant's parents have been employed outside the home, and thus they have decreased availability to perform chest physiotherapy for the appellant (Testimony).
26. As the appellant gets older, he has become more resistive to the efforts of his parents and physical therapists to perform chest PT (Testimony).
27. The DME provider has agreed to allow the appellant to continue to use the chest vest during the pendency of any appeals for coverage of the chest vest (Testimony).
28. Using the chest vest allows the appellant to be more involved in his therapy, as he puts the vest on himself, attaches the hoses to the vest, turns the machine on, and is generally an active participant in his therapy (Testimony).
29. Although the guidelines referred to by MassHealth were implemented in July, 2022, MassHealth asserts that "the criteria published in the MassHealth Guideline document are the same criteria MassHealth has been using to adjudicate Vest requests since this technology was introduced and closely follows the Medicare LCD guidelines for Oscillating Vests as required in the absence of a published MassHealth Guideline" (Exh. 7).

## **Analysis and Conclusions of Law**

Pursuant to MassHealth regulation 130 CMR 450.204:

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)

Next, pursuant to MassHealth regulations governing Oxygen and Respiratory Therapy Equipment at 130 CMR 427.401 *et seq.*, 130 CMR 427.407, "Nonreimbursable Services," states as follows:

**The Division does not pay for the following equipment and services:**

(A) any equipment or services that are investigative or experimental in nature;

(B) any equipment or services for which, under comparable circumstances, the provider does not customarily bill private patients who do not have health insurance;

(C) nonmedical equipment or supplies. Equipment that is used primarily and customarily for a nonmedical purpose is not considered medical equipment, even if such equipment has a medically related use. For example, equipment whose primary function is environmental control, comfort, or convenience is not reimbursable;

**(D) any equipment or services that are not both necessary and reasonable for the treatment of a recipient's pulmonary condition. This includes but is not limited to:**

(1) equipment or services that cannot, based on medical standards as determined by the Division, reasonably be expected to make a meaningful contribution to the treatment of a recipient's pulmonary condition;

- (2) equipment or services that are substantially more costly than a medically appropriate and feasible alternative; and**
- (3) equipment or services that serve essentially the same purpose as equipment already available to the recipient;**

...

(Emphasis added)

Pursuant to 130 CMR 432.417(B)(1), MassHealth pays for up to 20 physical therapy visits for an eligible member in a twelve-month period, with a prescription, and without prior authorization. Further, MassHealth determines the need for more than 20 physical therapy visits for an eligible member in a 12-month period, subject to receipt of a prior authorization request.

Here, the appellant has requested MassHealth coverage of a chest vest delivering compression pulses to his chest wall to assist with his airway clearance. The appellant has a diagnosis of CF. MassHealth does not dispute that the appellant, in order to maintain his health and avoid infections, needs a reliable and effective airway clearance regime. The question presented is whether there are less costly, more conservative alternatives to accomplish this goal than the chest vest.

MassHealth, in denying the request for the chest vest, noted that the appellant's health is stable, and that other methods of airway clearance, such as manual chest physiotherapy, a cough-assist machine, suction machine, Acapella device, or a positive expiratory pressure device, have not been tried, or if tried, have not been unsuccessful.

Manual chest physiotherapy is the most used therapy modality for the appellant. His parents, as well as licensed physical therapists, have performed this therapy for the appellant for many years. The appellant's parents raised concerns about their own availability to perform this function since they both work outside the home, about the appellant's resistance to chest physiotherapy, and about the difficulty they had finding at-home chest physical therapists for the appellant.

The appellant's parents erroneously believed that chest physical therapy is not covered by MassHealth; as indicated above, 130 CMR 432.417(B)(1) reflects that such therapy is, in fact, covered, up to 20 visits in a 12-month period, without prior authorization. The fact that chest physiotherapists were difficult to find during a single summer month, when vacations are common, does not mean that an at-home therapist will never be available to the appellant.

Moreover, it is clear that other modalities for mobilizing secretions, referred to in the MassHealth guidelines for chest vests, have not been tried for the appellant. Some, though not all, of these modalities may be useful for the appellant.

Regarding the July, 2022 guidelines for Medical Necessity Determination for Vests, these guidelines were codified after the denial decision for the appellant was made in June, 2022.

However, MassHealth argues that the provisions set forth in the guidelines are the same criteria MassHealth has been using to adjudicate requests for chest vests since this technology was introduced; the guidelines memorialize the standards MassHealth has followed all along when considering these requests. I find this argument persuasive.

In addition, MassHealth argues that its criteria for deciding whether to cover chest vests closely align with the Medicare local coverage determination for high frequency chest wall oscillation devices (E0483), in the absence of a specific MassHealth regulation on point.<sup>11</sup> The relevant LCD states that in order for Medicare to cover the cost of such devices, in addition to a Medicare member having CF or a similar diagnosis, there must be a well-documented failure of standard treatments to adequately mobilize retained secretions.

A well-documented failure of standard treatments and methods to mobilize retained secretions is not present in the appellant's case. This showing is required under the MassHealth guidelines for coverage to be approved.

In sum, MassHealth's decision to deny coverage of the chest vest is supported by the evidence. There are other suitable, more conservative and less costly alternatives for airway clearance, such as manual chest physical therapy, and various medical devices that have not been trialed by the appellant. As such, the definition of "medically necessary" as set forth in 130 CMR 450.204(A)(2), above, has not been met.

For these reasons, this appeal must be DENIED.

## **Order for MassHealth**

None.

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<sup>11</sup> Again, there is no evidence the appellant is enrolled in Medicare; MassHealth cites to Medicare because its regulations are analogous in some respects to MassHealth regulations.

## **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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Paul C. Moore  
Hearing Officer  
Board of Hearings

cc: Optum appeals representative