

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision: Denied

Appeal Number: 2207114

Decision Date: 11/23/2022

Hearing Date: 10/27/2022

Hearing Officer: Sara E. McGrath

Appearances for Appellant:



Appearances for MassHealth:

Robin Brown, OTR/L



*Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
Board of Hearings
100 Hancock Street
Quincy, MA 02171*

APPEAL DECISION

Appeal Decision:	Denied	Issue:	Prior Authorization (Durable Medical Equipment)
Decision Date:	11/23/2022	Hearing Date:	10/27/2022
MassHealth's Rep.:	Robin Brown, OTR/L	Appellant's Rep.:	Mother
Hearing Location:	Board of Hearings (Remote)		

Authority

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

Jurisdiction

Through a notice dated August 19, 2022, MassHealth denied the appellant's request for a Rifton activity chair (Exhibit 1). The appellant filed this appeal in a timely manner on September 21, 2022 (130 CMR 610.015(B)). Denial of a request for durable medical equipment is a valid basis for appeal (130 CMR 610.032). At the conclusion of the hearing, the record was left open until November 11, 2022 for the appellant to submit additional information and for MassHealth to review and respond.

Action Taken by MassHealth

MassHealth denied the appellant's prior authorization request for an accessory for a Rifton activity chair.

Issue

The appeal issue is whether the appellant has demonstrated the medical necessity of the requested equipment.

Summary of Evidence

MassHealth was represented by a consultant who testified via telephone as follows: The appellant, who is a young adult, is a MassHealth member with a diagnosis of a gene-related disorder with chronically progressive ataxia, spasticity, bulbar symptoms, myoclonus, cognitive and functional decline, and neuroimaging abnormalities. On August 16, 2022, MassHealth received a prior authorization request for a Rifton activity chair. On August 19, 2022, MassHealth denied the request because it found no medical necessity. Specifically, MassHealth determined that the appellant's new tilt-in-space manual wheelchair will meet all of his positioning needs throughout the day to complete activities of daily living, as well as to access to food, entertainment, educational materials, and therapeutic activities. MassHealth referenced two letters from the appellant's physical therapist, which provide in part as follows:

[The appellant] requires a supportive chair to maintain a safe posture. He struggles with prolonged sitting endurance, good posture, and maintained balance. He needs additional support when completing upper extremity activities such as feeding and therapeutic activities. The positioning during feeding is especially important at this time. The Rifton activity chair ensures appropriate safety and positioning supports required for feeding, homework, and therapeutic activities. The accessories can be optimized to this patient to provide good support without providing excessive support. He requires the tilt due to core weakness and hypotonia as this will optimize sitting endurance and oral control. The hi-lo feature allows him to transfer independently when motivated/able and to be brought to caregiver/table height for decreased caregiver burden, improved socialization, and access to the table. The hi-lo base also has recline, which is essential for care and positioning. Additionally the tilt and recline will only become more important with time as his condition is progressive. The spring back is required as he has significant extensor tone and without the flexibility of the system, he could break through the back hardware. The spring loaded back helps with calming and comfort as well.

(Exhibit 3, p. 15).

[The appellant] has a Liberty tilt manual wheelchair (delivered 2022). However this device does not meet all of needs and thus the Rifton activity chair was requested. His wheelchair allows for posterior tilt but no anterior tilt or height adjustments. It works well for transportation outside the home but these features are required for ease of transfer within the home. [The appellant] is very tall and has notable extensor tone. This makes it harder to transfer him in/out of his chair and it requires two caregivers to do so. However the Rifton activity chair has 15 degrees of forward tilt and the ability to make the seat higher, both of which help with transfers so that it only requires one caregiver for transfers. There is [sic] always two caregivers present outside the home (medical appointments, school, etc.) but within the home he is often just with one caregiver. The Rifton activity chair is used within the home for decreased burden of care and transfers. Additionally the activity chair

has 25 degrees of posterior tilt while the wheelchair only has 20 degrees. Those 5 degrees of tilt make a significant difference when feeding [the appellant] as he tucks his chin down and folds forward. The additional 5 degrees make it possible to utilize his harness to achieve the safest possible position for feeding. The tray on the Rifton chair is also larger than the one the wheelchair. This is essential for therapeutic activities and homework as [the appellant] has extensor tone, coordination and motor control issues in addition to long arms. The increased surface area is more functional for him to achieve the tasks he needs with increased independence. Lastly the four small wheels make the activity chair easier for caregivers to navigate around and through doorways in the home given patient height and weight.

While the Liberty wheelchair does provide essential functions outside the home, it does not provide enough features to meet the patient and caregivers [sic] needs in the home to maintain and/or improve his current level of function.

(Exhibit 3, p. 9).

The MassHealth consultant testified that MassHealth denied the request because all of the needs identified by the appellant's physical therapist can be met with his custom wheelchair. She noted that MassHealth typically pays for activity chairs for individuals who do not own a wheelchair. Here, the appellant requests the activity chair for supportive seating to maintain safe posture and balance while eating and performing various activities. MassHealth maintains that the appellant's wheelchair, which was approved six months ago, was custom made to meet all of his positioning needs. The physical therapist also notes that the activity chair allows for height adjustment, which would allow the appellant to be brought to table height. MassHealth explained that the appellant's wheelchair can come up to table height, and includes a tray as well. MassHealth responded to the physical therapist's request for the recline feature, pointing out that there is no documentation substantiating the need for this feature, and also noting that this feature was not requested for the recently purchased wheelchair. MassHealth responded to the physical therapist's request for the spring back feature due to the appellant's extensor tone, noting that this feature was not requested for the wheelchair, and also adding that it could be added to the wheelchair if needed. Regarding the request for a larger tray, MassHealth noted that a larger tray was not requested for the wheelchair, but could also be added if needed.

The MassHealth consultant testified that some of the needs identified by the physical therapist are not the standard of care. The physical therapist indicates that the activity chair allows for forward tilt and height adjustment, both of which would help the appellant's caregivers by making transfers easier. The MassHealth consultant explained that a height-adjustable wheelchair was not requested, and caregiver transfer difficulties were not noted in the medical necessity letter that accompanied the wheelchair request. The MassHealth consultant also pointed out that the record includes inconsistent information regarding the extent of transfer assistance needed. In the request for the wheelchair, the physical therapist indicated that the appellant requires minimal assistance with sit-to-stand transfers (Exhibit 3, p. 23). In this request, the physical therapist mentions

independent transfers in one letter but then indicates in another that the appellant needs two caregivers to complete transfers (Exhibit 3, pp. 9 and 15). The MassHealth consultant pointed out that the standard of care for dependent (two-person) transfers is to utilize a mechanical lift, which has not been requested. MassHealth responded to the physical therapist's statement that the appellant needs the 25 degrees of posterior tilt when eating. She pointed out that the appellant's wheelchair could have been ordered with more posterior tilt, but was not. Further, she explained that the standard of care for safe swallowing is to eat upright, not in a reclined position. With regard to the physical therapist's assertion that the activity chair wheels make navigation easier, MassHealth noted that the standard of care it considers evaluating an activity chair is proper positioning for activity participation, not mobility or caregiver ease.

The appellant's mother appeared at the hearing via telephone. She clarified how the appellant's new wheelchair is being utilized. She explained that the wheelchair is never used in the home, but rather is stored and used at the family's place of business. She stated that it is too difficult to dismantle the wheelchair and take it from place to place in the car, and therefore it remains at the family's store. She stated that the wheelchair has big wheels and many small parts, and it is a difficult and long process to take it apart and put it back together; the appellant cannot stand and wait while this process takes place. The appellant takes the bus to the store after school, and uses the wheelchair there for all activities (inside and outside). At home, the appellant is transferred to and from the apartment in an old wheelchair. In the home, he has an old activity chair that he has outgrown. He needs the new activity chair to be supported while performing all of the activities described above. The appellant's mother testified that the wheelchair is great for outside use, but is too big to be used inside. She also stated that the wheelchair tray is too small for the appellant's needs, and because it does not have a rim, liquids tend to spill on the appellant's lap. She also explained that the family recently moved apartments, and she does not believe the wheelchair will even fit through the doorways in the new apartment.

The MassHealth consultant responded to the above testimony and noted that one of the reasons the manual wheelchair was requested was because it folds and can be easily transported in the car. She also added that the appellant need not stand and wait while the wheelchair is being put into the car; he can be settled into the car first.

Post-hearing, the appellant submitted an additional letter from his physical therapist (Exhibit 4). This letter provides in relevant part as follows:

[The appellant] utilizes the Liberty tilt-in-space manual wheelchair [sic] community mobility. The width measurement of his wheelchair (wheel to wheel) is 30". Within his home, both the bathroom and bedroom doorways measure 30" wide. Per ADA (Americans with Disabilities Act), the minimum clear width for a wheelchair passage should be 32". Given the above measurements, [the appellant's] wheelchair does not have ample space to maneuver through his home within standard door frame measurements.

(Exhibit 4).

MassHealth submitted a response which provides in part as follows:

MassHealth disputes Ms. Morehouse's statement of [the appellant's] wheelchair width. [The appellant's] wheelchair was ordered with a 17 inch seat – which does not include the width of the armrests and the wheels. . . . A standard wheelchair is 18 inches wide at the seat – one inch wider than [the appellant's] wheelchair. The armrests and wheels of a standard wheelchair add 9 inches to the overall width of the chair. I have confirmed that with an independent mobility website called Lo'Aids. . . .

To clarify further I have spoken to "Casey" at Ki Mobility, the manufacturer of [the appellant's] wheelchair. She confirmed with me that the width of [the appellant's] wheelchair with armrests and wheels that were ordered would be 27 and ½ inches wide from wheel to wheel and would therefore fit through a 30 inch doorway.

I also researched size of the Rifton Large Hi/Lo Activity Chair in dispute that was requested for [the appellant]. The Manufacturers website states the width of the frame for this Activity Chair is 29.75 inches wide. . . . Therefore, [the appellant's] Liberty FT wheelchair, at 27.5 inches wide, will, in fact, fit through a 30 inch doorway with 2.5 inches to spare. The Rifton Activity Chair will at 29.25 inches wide will have only 0.25 inches of room to pass through a 30 inch doorway. Therefore, MassHealth continues to deny the Rifton Large Hi/Lo Activity Chair as the manual wheelchair he has been provided can meet his medical needs.

(Exhibit 5).

Findings of Fact

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

1. The appellant, who is a young adult, is a MassHealth member with a diagnosis of a gene-related disorder with chronically progressive ataxia, spasticity, bulbar symptoms, myoclonus, cognitive and functional decline, and neuroimaging abnormalities.
2. Approximately six months ago, MassHealth approved a prior authorization request for a Liberty custom manual tilt-in-space wheelchair for that appellant. This wheelchair provides for all of the appellant's specialized positioning needs.
3. Accessories such as a spring back and large tray can be added to the wheelchair if necessary.
4. The appellant uses the manual wheelchair at his family's place of business only.
5. The manual wheelchair has a total width of 27.5 inches, which is 2.5 inches narrower than

the 30 inch doorways in the appellant's home.

6. On August 16, 2022, MassHealth received a prior authorization request for a Rifton activity chair.
7. On August 19, 2022, MassHealth denied the request because it found no medical necessity.
8. On September 21, 2022, the appellant timely appealed this MassHealth determination.

Analysis and Conclusions of Law

By regulation, MassHealth will not pay a provider for services that are not medically necessary. Pursuant to 130 CMR 450.204(A), a service is considered "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 or cause 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: *Potential Sources of Health Care*, or 517.007: *Utilization of Potential Benefits*.

Further, MassHealth does pay for the following durable medical equipment (DME):

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)

(130 CMR 409.414(B)).

At issue in this case is MassHealth's denial of the appellant's prior authorization request for a Rifton activity chair. MassHealth denied the request on the basis that the appellant's custom manual

wheelchair serves the same purpose as the requested activity chair. Specifically, the appellant's wheelchair will meet all of the appellant's various positioning needs throughout the day to complete all of his activities. The appellant disputes this determination.

The appellant's central argument is not that the wheelchair fails to meet his positioning needs, but rather that the wheelchair is never used in the home and thus the activity chair is needed to meet his seating and positioning needs in the family's apartment. The appellant's mother explained that the wheelchair is not easily transported between the family's business and home, and also that the wheelchair will not fit through the doorways in the family's apartment. As to the first argument, MassHealth persuasively argues that the appellant requested the Liberty manual wheelchair precisely because it can fold and can fit in the family's car. In support of the wheelchair request, the physical therapist wrote that "this chair is the only option that provides tilt, can fold, and is sturdy enough to hold up against his muscle tone/myoclonus/posturing" (Exhibit 3, p. 24). While the folding process may not be easy and may take some time, there is no evidence that this task cannot be accomplished. Further, to avoid standing outside and waiting for an unreasonable length of time, the appellant could be positioned in the car first.

The appellant also maintains that the wheelchair will not fit through the 30 inch door frames in the family's apartment. In support of this argument, the appellant's physical therapist writes, without any additional support, that the width measurement of the wheelchair is 30 inches (Exhibit 4). MassHealth disputed that measurement, and provided evidence from the manufacturer, as well as other sources, that the total width is 27.5 inches (Exhibit 5). The appellant has not provided sufficient support to demonstrate that his wheelchair will not clear the door frames in his home.¹

The appellant also argues that Rifton activity chair ensures appropriate safety and positioning supports required for feeding, homework, and therapeutic activities. MassHealth does not dispute that the activity chair provides these benefits, but persuasively argues that all of the appellant's positioning needs can be met with his custom wheelchair. The appellant argues that the height adjustment feature is needed to assist caregivers with transfers. As noted by MassHealth, this feature was not included with the request for the recently purchased wheelchair, and caregiver transfer difficulties were not noted to be an issue. Further, the medical necessity determination does not consider caregiver ease, but rather is focused on the appellant's medical needs. As noted at hearing, the standard of care for dependent transfers involves the use of a mechanical lift. Lastly, many of the additional features requested for the activity chair (a spring back and a larger tray) can be added to the appellant's current wheelchair if necessary.

On this record, the appellant has not demonstrated that the requested Rifton activity chair is medically necessary at this time (130 CMR 450.204 and 409.414).

This appeal is denied.

¹ Following the appellant's argument, the Rifton activity chair, at 29.5 inches wide, is too wide to properly clear the door frames in the appellant's home.

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.

Sara E. McGrath
Hearing Officer
Board of Hearings

cc: Optum