

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



**Appeal Decision:** Denied

**Appeal Number:** 2207219

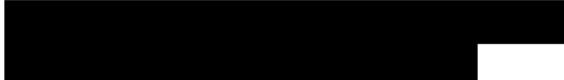
**Decision Date:** 11/08/2022

**Hearing Date:** 10/31/2022

**Hearing Officer:** Thomas Doyle

**Record Open to:**

**Appearance for Appellant:**



**Appearance for MassHealth:**

Katina Dean

**Interpreter:**



*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

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Transportation
<b>Decision Date:</b>	11/08/2022	<b>Hearing Date:</b>	10/31/2022
<b>MassHealth's Rep.:</b>	Katina Dean	<b>Appellant's Rep.:</b>	[REDACTED]
<b>Hearing Location:</b>	Remote (phone)	<b>Aid Pending:</b>	No

## 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 October 3, 2022, MassHealth denied appellant's prior authorization request for transportation services. (130 CMR 407.411; Ex. 1). Appellant filed this appeal in a timely manner. (130 CMR 610.015(B); Ex. 2). Denial of assistance is valid grounds for appeal. (130 CMR 610.032).

## Action Taken by MassHealth

MassHealth denied Appellant's prior authorization request for transportation services to an adult day health provider.

## Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 407.411, in denying appellant's prior authorization request for transportation services to an adult day health provider.

## Summary of Evidence

A prior authorization request for transportation services was submitted on appellant's behalf. Appellant requested transportation to SeaView Adult Day Health in Mashpee MA. The request was denied pursuant to 130 CMR 407.411(B)(2), which states MassHealth does not cover transportation of persons who are elderly or disabled to adult day health programs. The

MassHealth representative testified that adult day health provides their own transportation. SeaView Adult Day Health wrote in a letter that it cannot provide transportation to Dennis, MA, where appellant lives, because appellant's location is too far from their site and the client would be in the van well over an hour when adding other pickups and drop offs.

Appeal representative said she has had multiple conversations with the adult day health provider, Seaview Adult Day Health, and they will not budge on providing transportation to appellant. Appellant representative expressed her frustration because Seaview acknowledges they provide transportation up to 25 miles and that appellant only lives 17 miles away.

## Findings of Fact

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

1. Appellant is a female in her late 60's. (Ex. 1, p. 2).
2. MassHealth denied appellant's request for transportation. (Ex. 1).
3. Seaview Adult Day Health is an adult day health provider. (Testimony). Seaview stated it could not provide transportation for the appellant to Dennis, MA. (Ex. 5).

## Analysis and Conclusions of Law

### 130 CMR 407.411: Transportation Utilization Requirements:

(A) Covered Services. The MassHealth agency pays for transportation services that meet the requirements of 130 CMR 407.000 only when such services are covered under the member's MassHealth coverage type and only when members are traveling to obtain medical services covered under the member's coverage type (see 130 CMR 450.105: Coverage Types).

(B) Noncovered Services. The following are examples of transportation services that are not covered by MassHealth.

(2) transportation of persons who are elderly or disabled to adult day health programs, except when arranged by special contract with the MassHealth Adult Day Health Program.

The appellant has the burden "to demonstrate the invalidity of the administrative determination." Andrews v. Division of Medical Assistance, 68 Mass. App. Ct. 228 (2007). In reference to 407.411 (B)(2), no evidence was submitted indicating a "special contract with MassHealth Adult Day Health Program," therefore, pursuant to the regulation, Seaview is to provide their own transportation. (Ex. 1; Testimony). Seaview Adult Day Health is an adult day health provider. (Testimony). "Regulations adopted by [the] agency stand on the same footing as statutes with reasonable presumptions to be made in favor of their validity." Student No. 9 v. Board of Education, 440 Mass. 752, 762-3 (2004). MassHealth was correct in denying the request for

transportation, because consistent with the regulations, Seaview is obligated to provide their own transportation. Therefore, the appeal is denied.<sup>1</sup>

## **Order for MassHealth**

See Footnote #1.

## **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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Thomas Doyle  
Hearing Officer  
Board of Hearings

cc:

MassHealth Representative: Katina Dean, MAXIMUS - Transportation, 55 Summer St.,  
8th Fl., Boston, MA 02110

[REDACTED]

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<sup>1</sup> The MassHealth representative testified that MassHealth was receiving numerous appeals from members asserting that adult day health programs were not providing transportation. I would encourage MassHealth to further investigate these complaints.