

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision: Denied

Appeal Number: 2208023

Decision Date: 1/3/2023

Hearing Date: 11/29/2022

Hearing Officer: Radha Tilva

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Robin Brown, Optum Representative



*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:	PA – power wheelchair
Decision Date:	1/3/2023	Hearing Date:	11/29/2022
MassHealth's Rep.:	Robin Brown	Appellant's Rep.:	Pro se
Hearing Location:	Quincy Harbor South	Aid Pending:	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 September 7, 2022, MassHealth denied the appellant's prior authorization request for a Group 2 power wheelchair (Exhibit 1). The appellant filed this appeal in a timely manner on October 27, 2022 (see 130 CMR 610.015(B) and Exhibit 2). Denial of assistance is valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied appellant's prior authorization request for a Group 2 power wheelchair.

Issue

The appeal issue is whether MassHealth was correct in denying appellant's prior authorization request for a Group 2 power wheelchair.

Summary of Evidence

MassHealth was represented by an occupational therapist who testified that MassHealth received a request on September 2, 2022 by National Seating and Mobility for a Group 2 power wheelchair. This request was reviewed by MassHealth and denied on September 7, 2022 as it was a duplicate

equipment request and MassHealth had already provided a power wheelchair in 2020. The cost of that wheelchair, at the time, was \$20,157.00 and the cost of the new, requested wheelchair is \$4,286.92. Images of the requested power wheelchair and the one MassHealth provided were produced in MassHealth's packet (see Exhibit 6, p.37).

The MassHealth representative highlighted the following in letter of medical necessity written by appellant's physical therapist:

Pt presents to the PT clinic for WC eval for a portable power chair for access to the community. Pt states that she all ready has a electric WC for access of the home environments that was given in Oct. of 2020. Pt. states she is able to keep the WC in the apartment but unable to bring it with her in the community as she has no way to transport the WC with her. Pt does drive independently. She currently uses a rollator for community ambulation but finds that pain in the knees restrict her from ambulating long distances. Pt. has had multiple interventions for the pain in the knees from shots to currently obtaining PT for management of pain and strength in the knees.

The MassHealth representative explained that appellant is in her late fifties and has medical history which includes diabetes, obesity, and osteoarthritis. The representative further explained that the old letter of medical necessity for the 2020 prior authorization request demonstrated that appellant had lots of other problems, including that she was non-ambulatory. The request stated that the approval of the power wheelchair would allow her to go out of the house and go shopping, walking her companion dog, and gain access to stores and community events in her neighborhood close to downtown (Exhibit 6, p. 32). The MassHealth representative explained that the 2020 power wheelchair was approved to help appellant accomplish those tasks. The representative agreed that appellant benefits from the tilt and elevating seat features in her present wheelchair. The representative further stated that the new request for the power wheelchair cannot be approved as it is duplicative. The representative testified that per the regulations MassHealth only pays for manual wheelchairs when a power wheelchair cannot fit into a car. The representative stated that MassHealth has possible transportation options for appellant. The representative further encouraged appellant to seek alternate funding sources or to go to the provider and ask them for options. The MassHealth representative explained that if the requested power wheelchair is approved by the Hearing Officer then MassHealth will not repair or replace the old power wheelchair.

The appellant appeared by telephone and testified to the following: her 2020 power wheelchair is fantastic, however, it is too heavy and does not fit into her car. She is 350 lb. and she cannot use a manual wheelchair because she does not have the arm strength necessary to push herself. She has carpal tunnel syndrome, tennis elbow, and a torn rotator cuff. As a result, her doctor requested the portable power wheelchair requested in 2020. The appellant testified that she did not know a portable power wheelchair existed when she requested the wheelchair in 2020. Her present wheelchair only allows her to travel locally in her neighborhood. The local grocery store is too far and she has to drive to it. She tries to use her walker if she has to go, but often lacks the strength and energy to complete her shopping. She is unable to fully participate in outings which require distance with her family and friends because her relatives do not want to push her in the manual wheelchair. This is humiliating to her. In her fair hearing request letter appellant wrote that she

cannot stand or walk for long periods of time and she misses out on events like tag sales and museums. She also cannot use a walker for great distances. Her inability to participate in these activities increases her depression. The appellant testified that a home health aide does come to the house to help with laundry and cleaning. The home health aide can do a grocery run, but is only authorized for five hours per week.

A letter from Dr. Yarima Santiago, dated June 6, 2022, was submitted prior to hearing and states that appellant is “not a functional ambulator and is not able to propel any type of manual wheelchair efficiently for functional daily use due to decreased strength and mobility secondary to her osteoarthritis and morbid obesity. [Her] current wheelchair does not provide her with sufficient, safe mobility and access to community environments and transportation. Her current wheelchair cannot be modified to provide the necessary seating and mobility components required. A portable electric wheelchair will allow for improved mobility outside of her apartment and help her remain independent.”

Findings of Fact

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

1. MassHealth received a request on September 2, 2022 by National Seating and Mobility for a Group 2 power wheelchair.
2. This request was reviewed by MassHealth and denied on September 7, 2022 as it was a duplicate equipment request and MassHealth had already provided a power wheelchair in 2020.
3. The cost of the wheelchair provided in 2020 was \$20,157.00 and the cost of the new, requested wheelchair is \$4,286.92.
4. The requested wheelchair is a power mobility system which is portable and lighter than the one that appellant currently uses.
5. The current power mobility system that MassHealth provided to appellant that she is too heavy and bulky for her to put in her vehicle for transport.
6. Appellant uses her current mobility device to travel around the neighborhood, access her local community, and walk her dog.
7. Appellant does not have the arm strength to use a manual wheelchair.
8. The appellant cannot use a walker for great distances.
9. The appellant has a home health aide that assists her for approximately 5 hours per week.

10. The appellant would like to take trips outside of her neighborhood and feels that like it would be best to do that with the use of a portable power wheelchair.
11. At the time of her request in 2020 appellant was not told that there was a portable power wheelchair.

Analysis and Conclusions of Law

MassHealth determined that appellant's request for a new power wheelchair was duplicative and not medically necessary. 130 CMR 409.414(B) and 130 CMR 409.413(D), outlined below, are the relevant regulations:

409.414: Non-covered Services

The MassHealth agency does not pay for the following:

- (A) DME that is experimental or investigational in nature;
- (B) 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)...*

409.413: Covered Services

- (D) The MassHealth agency pays for a **manual** wheelchair, including any necessary repairs, as a **backup** to a power mobility system if the member is not residing in a nursing facility, or the member is residing in a nursing facility and has a written discharge plan, and one of the following conditions applies:
 - (1) the level of customization of the member's primary power mobility system would preclude the use of substitute rental equipment if the primary power mobility system were removed for repair;
 - (2) the member requires frequent outings to a destination that is not accessible to a power mobility system (for example, stairs without an elevator); or
 - (3) it is not possible to fit the primary mobility system in any of the vehicles available to the member for transportation.

Appellant requests a second power mobility system. MassHealth was correct in denying the request according to the regulations above. It is important to note that MassHealth spent over \$20,000.00 on the original power mobility system. The requested power mobility service would serve nearly the same purpose as the DME already in use by the appellant. Though appellant claims that she cannot fit her primary mobility system in her vehicle which prevents her from being able to participate in events and social outings, appellant's primary mobility system was provided by

MassHealth, according to the 2020 prior authorization request to allow her the opportunity to go out into the community, walk her dog, and go to local stores. Thus, this mobility system was provided to serve nearly the same use as the requested portable mobility system. Appellant claims that she cannot attend social events or go to grocery store independently and the MassHealth representative has suggested that appellant seek alternate ways to assist her with those activities or to find alternate sources of funding. Perhaps appellant can ask for an increase in home health aide hours to allow the home health aide to go grocery shopping for her. The regulations above make clear that MassHealth only pays for a manual wheelchair, not power, where it is not possible to fit the primary mobility system in any of the vehicles available to the member for transportation. While Dr. Santiago's letter which states that appellant cannot self-propel a manual wheelchair is compelling, the testimony from the MassHealth representative indicating that there are other alternatives to help assist her with errands and transportation is more persuasive. For these reasons this 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.

Radha Tilva
Hearing Officer
Board of Hearings

cc:

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