Office of Medicaid
BOARD OF HEARINGS

Appellant Name and Address:

[redacted]

Appeal Decision:	Denied	**Appeal Number:**	2208074
Decision Date:	1/18/2023	**Hearing Date:**	12/08/2022
Hearing Officer:	Rebecca Brochstein		

Appearances for Appellant:
[redacted]

Appearances for MassHealth:
Elizabeth Miner, OTR/L

Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
Board of Hearings
100 Hancock Street, 6th Floor
Quincy, MA 02171

APPEAL DECISION

Appeal Decision:	Denied	**Issue:**	Prior Approval (Durable Medical Equipment)
Decision Date:	1/18/2023	**Hearing Date:**	12/08/2022
MassHealth's Rep.:	Elizabeth Miner	**Appellant's Rep.:**	Appellant's Guardian and Mother
Hearing Location:	Board of Hearings (Remote)	**Aid Pending:**	No

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 October 20, 2022, MassHealth approved the appellant's request for a Cubby Basic Safety Bed and safety sheet, but denied the request for certain bed accessories (Exhibit 4 at 4). The appellant filed this appeal in a timely manner on October 25, 2022 (130 CMR 610.015(B); Exhibit 2). Denial of a request for durable medical equipment is a valid basis for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth approved the appellant's request for a Cubby Basic Safety Bed and a safety sheet, but denied the request for certain bed accessories.

Issue

The appeal issue is whether the appellant has demonstrated the medical necessity of the denied accessory items.

Summary of Evidence

MassHealth was represented by a licensed occupational therapist, who appeared telephonically. She offered the following information through testimonial and documentary evidence: The appellant is a young child with diagnoses that include OTX2 genetic mutation, anophthalmia, hypopituitarism, thyroid growth hormone deficiency, and Addison's disease. He lives with his full-time caregiver, who is also his guardian.

On October 18, 2022, the appellant's durable medical equipment (DME) provider, Numotion, requested prior authorization of a Cubby Basic Safety Bed with a safety sheet and a Technology Hub Safety & Sensory Kit (Technology Hub). According to the quote from the DME provider, the Technology Hub includes a "[c]amera, mic, sensors, circadian light, soothing speaker, and software." See Exhibit 4 at 19. The prior authorization request included a letter of medical necessity from a physical therapist at the appellant's school. It states in relevant part as follows:

> . . . [Appellant] is currently a student within the Lower School Program at Perkins School for the Blind. [He] receives many skilled services at Perkins, including physical therapy. In his physical therapy sessions [appellant's] sessions focus on his standing balance, endurance, mobility, initiation of movement away from supports, and walking skills. [He] has global developmental delays and has difficulty regulating his sensory needs, often displaying self-injurious behaviors.
>
> [Appellant] currently lives with his full-time caregiver. . . . He requires 24 hour supervision to ensure his safety at all times. Due to his above listed diagnoses and behaviors in bed including crying, back arching, head bang to surface, self-hitting, bites to self and others he has recently had a one (1) month long hospitalization due to self-insidious [sic] behaviors leading to costly medical bills, time away from home and from school. The requested bed will provide a controlled environment that supports healthy behaviors to improve his sleep hygiene and overall physical safety.
>
> [Appellant] continues to work on communication skills at school however is non-verbal. He requires both hands to be held while walking and often is seen dropping to the floor. When [he] is unable to safely ambulate, he uses a stroller for mobility.
>
> [Appellant] currently has a sleep routine that beings around 7:30 pm at which time he is given melatonin and placed into his pack and play which he sleeps in for safety reasons. Unfortunately the pack and play is not the best fit due to [his] size and behaviors. Within the pack and play, [appellant] is seen to climb out and hit his head against the bars. [He] sleeps with a weighted blanket on top of him at this time to assist with sensory regulation. Loud noises startle him which leads to poor sleep and increased self-injurious behaviors. [Appellant's] caregivers have tried placing a mattress on the floor for him however he is able to get off the mattress and is unsafe in his environment without 24/7 supervision meaning his caregivers are unable to sleep during his wake times using this strategy [Appellant's] caregiver reports they have tried to put him in his own room however he

wakes up frequently therefore for safety reasons he must remain in the caregivers [sic] room overnight ultimately affecting their sleep as well. Finally, [he] will get a bottle with morning medications around 4:00 am.

Currently, He sleeps in a pack and play. He requires constant supervision at night by his caregiver due to safety and self-injurious behavior. Due to [his] full blindness, he is also at an increased risk for falls within an unsupervised environment.

Less costly equipment and interventions include but are not limited to the current pack and play, a mattress on the floor, sensory diet, and different medications prescribed by his doctors. These options were not appropriate for a multitude of reasons. As described above [appellant] is unsafe in the pack and play and with a mattress on the floor. [He] is unable to communicate due to his above listed diagnoses and is blind. He will not tolerate a helmet, a full sensory diet is currently being utilized (vibration, weighted blanket, chewys, music, being wrapped in a soft blanket, and texture play), and [he] is on a strict medication regimen. Despite all efforts [appellant] remains at risk during the night and would highly benefit from the Cubby Bed.

The Cubby Bed is the only available safety bed that offers features that are medically necessary to meet the unique needs of [appellant] to optimize His sleep hygiene and maximize safety to reduce risk of injury and self-harm. The Cubby bed eliminates the 7-zones of entrapment identified by the FDA.

Equipment Justification:

Canopy Bed

- the enclosed environment will decrease elopement. The zippered opening can only be controlled by the caregiver to ensure the user will remain safe through all hours in their room.

- to be placed in an enclosed environment for safety to prevent falls which can be experienced from a standard bed.

- to be placed in a 360-degree enclosed environment to allow for independent movement where the user would not be able to nest or endanger themselves from contact with hard surfaces.

- to be placed in an enclosed environment for safety due to impulsive unregulated behaviors.

- to be placed in a soft-enclosed environment to eliminate entrapment from safety rails and bars.

Electronics Hub

- incorporates a circadian light for creating a more normative sleep wake cycle to improve sleep hygiene

- incorporates a Bluetooth camera for uninterrupted remote monitoring for the caregiver.

- incorporates a two-way communication system with speaker and mic for communicating to de-escalate a behavior or provide other verbal cues the user requires.

- ability to input soothing sounds for low stimulation and sensory regulation.

- assists in creating an environment for sensory regulation to moderate the user's behaviors.

- can be controlled by the caregiver through an app that can adjust the settings to create a soothing, safe environment to deescalate emotions and behaviors.

- incorporates a vibration pad which provides a controlled, but soothing effect which has been shown to deescalate [appellant's] emotions. [He] has trialed smaller vibration toys however requires constant supervision with their use due to hard plastic covers which he uses as a means for self-injurious behavior

Safety Sheet

- is intended for prevention of entrapment or nesting with a full zipped edge designed to create one even surface. This allows for user's movement without risk of entanglement in loose sheets or entrapment within the space between mattress and edge of bed. No other bed as in lesser options [sic].

Tensioned Canopy Padding

- is intended to protect the user from injury due to self-injurious behaviors.

While there are other beds available, the recommendation for the Cubby Bed is the most appropriate and cost-effective option to meet [appellant's] functional, developmental and medical needs. The Cubby Bed is a full-sized bed that allows [him] to grow without requiring a replacement for a larger size of bed. When the environment is controlled he will be afforded the opportunity to sleep, directly impacting his ability to positively function and participate in daily activities. The Cubby Bed – Please authorize payment for the Cubby Bed and all of the components. (Exhibit 4 at 14-17)

The MassHealth representative testified that the Technology Hub consists of a video camera, motion and sound detection alerts, smoke and carbon monoxide alerts, a circadian light, a meditative breathing program, and a speaker with preloaded sounds[1]; there are also available "add-on accessories," such as a weighted blanket, aromatherapy spray, and a vibration mat. She testified that the bed (which was approved) costs $6,635.25, and the Technology Hub (which was denied) is an additional $2,268.[2]

The MassHealth representative testified that the agency agrees with the medical necessity of the enclosed bed, with its retractable windows, padding on all sides, and the safety sheets. However, MassHealth found that the Technology Hub accessories are not covered because they do not meet the regulatory definition of durable medical equipment. The representative stated that under 130 CMR 409.402, durable medical equipment is defined in part as equipment that is used primarily and customarily to serve a medical purpose, and is generally not useful in the absence of disability, illness or injury. She testified that the Technology Hub items that were requested are all available commercially and are commonly used by individuals who do not have a disability, illness, or injury.[3] The MassHealth representative also noted that these items are not among the accessories listed in MassHealth's *Guidelines for Medical Necessity Determination for Hospital Beds.* See Exhibit 4 at 32. On October 20, 2022, MassHealth approved the bed and the sheet, but denied the remaining items.

The appellant was represented at hearing by his guardian, who is his full-time caretaker, as well as his mother. The guardian testified that the appellant has been sleeping in her room because she needs to be able to see him, but had hoped that the camera accessory would allow her to move him into his own room on a separate floor. She stated that she has two upcoming surgeries and that it will be hard for her to go up and down the stairs to check on him; she argued that if she is able to see him over the camera monitor, she will know from a distance whether he needs her. She testified that he does not sleep through the night and that the bed accessories will help to calm him down. She stated that she is just looking for the camera, the music, and the vibration mat; she clarified that he does not currently have a vibration device that can go in the bed with him.

The appellant's mother contended that MassHealth should cover the camera accessory to ensure that he is safe in his bed; she argued that he is not safe if someone is not able to monitor him at all times. She likened the approval of the bed without the camera to putting him on a bus without a car seat. She emphasized that he is very aggressive and engages in self-injurious behaviors, and that he will

[1] She noted that the Technology Hub is an "all-or-nothing" package, as the individual features cannot be added à la carte.

[2] These figures do not match the two quotes from the manufacturer that are included with the MassHealth hearing packet. See Exhibit 4 at 18, 19. The reason for the discrepancy is not apparent from the record.

[3] The MassHealth representative testified that the appellant's DME provider did not include the vibration mat in this PA request, but noted that the records indicate he already has access to a device that provides this benefit. She stated that the provider can file a separate PA request to have MassHealth consider the medical necessity of this item.

end up "bruised and bloody" if he is left unsupervised for even five minutes.

The MassHealth representative responded that MassHealth determined the use of the bed alone is safe for him, and that the Technology Hub is a secondary, optional item. She pointed out that the bed can only be unzipped from the outside, so he will not be able to get out on his own. She stated that a commercially-available camera system can be positioned outside of the bed, which has transparent mesh walls.

Findings of Fact

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

1. The appellant is a young child with diagnoses that include OTX2 genetic mutation, anophthalmia, hypopituitarism, thyroid growth hormone deficiency, and Addison's disease. He lives with his full-time caregiver, who is also his guardian.

2. On October 18, 2022, the appellant's DME provider filed a MassHealth prior authorization request for a Cubby Basic Safety Bed with a safety sheet as well as a Technology Hub Safety & Sensory Kit.

3. The Technology Hub includes a camera, microphone, sensors, circadian light, soothing speaker, and software. The DME provider offers supplemental accessories, such as a weighted blanket, aromatherapy spray, and vibration mat.

4. On October 20, 2022, MassHealth approved the Cubby Basic Safety Bed and safety sheet, but denied coverage of the Technology Hub.

5. The appellant has global developmental delays and has difficulty regulating his sensory needs. He often displays self-injurious behaviors.

6. The appellant wakes up frequently during the night. He currently sleeps in a portable crib in his guardian/caretaker's room.

7. The appellant has a full sensory diet, including vibration, weighted blanket, chewys, music, soft blanket, and texture play.

Analysis and Conclusions of Law

The regulations pertaining to MassHealth's coverage of durable medical equipment (DME) services are found at 130 CMR 409.000 et seq. MassHealth does not pay for products that are not considered DME. 130 CMR 409.414(L). DME is defined at 130 CMR 409.402 as:

> equipment that (1) is used primarily and customarily to serve a medical purpose; (2) is generally not useful in the absence of disability, illness or injury; (3) can withstand

> repeated use over an extended period; and (4) is appropriate for use in any setting in which normal life activities take place, other than a hospital, nursing facility, ICF/IID, or any setting in which payment is or could be made under Medicaid inpatient services that includes room and board, except as allowed pursuant to 130 CMR 409.415 and 130 CMR 409.419(C).

In this case, MassHealth approved the appellant's request for the Cubby Basic Safety Bed and safety sheet as medically necessary durable medical equipment. However, MassHealth denied the request for the "Technology Hub" accessory for the bed because it determined it did not meet the definition of DME. MassHealth's determination is supported by the record. The features of the Technology Hub include a video camera; alert systems for motion, sound, smoke, and carbon monoxide; a circadian light, a meditative breathing program, and a speaker that plays pre-loaded sounds. As the MassHealth representative contended, these features are not primarily used for medical purposes and are frequently used in the absence of disability, illness, or injury. Items such as night-time cameras and devices that play music or sounds are commonly available for retail purchase.[4] It is also notable, as MassHealth pointed out, that these items are not among the accessories listed in MassHealth's guidelines for hospital beds.

For the reasons set forth above, the Technology Hub does not meet the regulatory definition of DME, and it is therefore not a covered service under MassHealth regulations. 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.

Rebecca Brochstein
Hearing Officer
Board of Hearings

cc: Optum

[4] The appellant's representatives expressed interest in the vibration pad add-on accessory, which was not part of this prior authorization request. As the MassHealth representative suggested, the appellant may file a separate PA request for this item.