

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2300030
Decision Date:	3/23/2023	Hearing Date:	02/13/2023
Hearing Officer:	Rebecca Brochstein	Record Closed:	02/17/2023

Appearances for Appellant:



Appearances for MassHealth:

Katina Dean, Transportation Unit



*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:	Transportation
Decision Date:	3/23/2023	Hearing Date:	02/13/2023
MassHealth Rep.:	Katina Dean	Appellant's Rep.:	Appellant's Mother/Guardian
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

On December 16, 2022, MassHealth denied the appellant's PT-1 request for transportation services to a day program because it is not a MassHealth provider (Exhibit 1). On January 3, 2023, the appellant's mother filed an appeal with the Board of Hearings on his behalf (Exhibit 2).¹ The Board of Hearings dismissed the appeal due to lack of authorization to file the appeal; the dismissal was later vacated after the appellant's mother submitted a copy of a guardianship decree (Exhibit 3). Denial of requested services is a valid basis for appeal (130 CMR 610.032). After hearing, the record was held open until February 17, 2023, for additional evidence.

Action Taken by MassHealth

MassHealth denied the appellant's request for transportation services to a day program because it is not a MassHealth provider.

Issue

The appeal issue is whether MassHealth correctly denied the appellant's request for transportation services.

¹ MassHealth issued a similar denial notice on January 6, 2023. See Exhibit 3.

Summary of Evidence

A representative from the MassHealth Transportation Unit appeared at the hearing telephonically and testified as follows: The appellant is a MassHealth member who is over the age of 21. In December 2022, a PT-1 request for transportation services was submitted on the appellant's behalf. The request was for transportation to and from Crossroads Continuum, which offers a specialized day program for adults with autism. The MassHealth representative testified that the provider does not participate in MassHealth, and that the agency therefore does not cover transportation to this program. The MassHealth Transportation Unit notified the appellant that the request had been denied on this basis.²

The appellant's mother, who is also his legal guardian, appeared telephonically on his behalf. She testified that the appellant previously attended the Crossroads school and that he was just accepted to the adult day program, which is new. She stated that he has had no services since he turned 21 more than two years ago and that his level of functioning has regressed. She contended that the Crossroads adult program is the most appropriate setting for him, but that she is not able to drive him there. The mother explained that she and the appellant's father (her former spouse) both work full-time and have no way to get him to and from the program. She noted that her private insurance, which may pay for the program itself, does not cover transportation.

The record was held open for the mother to submit documentation from the appellant's providers. The first letter, from his pediatrician, states in relevant part as follows:

[Appellant] has a diagnosis of Trisomy 21 and Autism. It is crucial for him to attend Crossroads Continuum Day Program for his development, mental health and well being given his diagnosis. This particular program specializes in his specific needs. Please deeply consider covering his transportation needs for this program.

The second letter, from a clinician at Crossroads, states the following:

[Appellant] has been a client of Crossroads Continuum since 2011, he was a student at Crossroads Day School from 2011-2022, and has received Home Services since 2016. In the years of 2016-2022 he received an average of 8 hours a week of home services, in conjunction with 40 hours of schooling. Since graduating from the school in February of 2022 [he] no longer receives 40 hours of school, and home services have decreased to an average of 4 hours a week. Since the decrease in service hours [he] has seen an increase in challenging behaviors such as screaming and aggressions towards parent and staff and a significant decrease in meeting objectives.

Based on record review during the treatment plan time of September 2022-January 2023 he met 0% of his objectives, this is a decrease from the treatment plan of January 2022-August

² The MassHealth representative testified that the provider offers MassHealth-covered services for individuals under the age of 21 who are enrolled in the Massachusetts Behavioral Health Partnership.

2022 he met 80% of his overall objectives. The treatment plan of September 2022-January 2023 [he] had 32 (20-49) instances per session of yelling across six consecutive sessions this is an increase since January 2022-August 2022 when it was not tracked due to it not being a behavior of concern. During the treatment plan of September 2022-January 2023 aggressions have been added to the treatment plan for the first time, due to aggressions at home and during home services. (Exhibit 8)

Findings of Fact

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

1. The appellant is a MassHealth member who is over the age of 21.
2. The appellant has been accepted at a specialized day program for adults with autism. He previously attended a school run by the same agency.
3. In December 2022, a PT-1 request for transportation services was submitted on the appellant's behalf. The request was for transportation to and from the day program.
4. The adult day program does not provide MassHealth-covered services.
5. On December 16, 2022, and again on January 6, 2023, MassHealth denied the request for transportation services.
6. On January 3, 2023, the appellant filed a timely appeal.

Analysis and Conclusions of Law

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. 130 CMR 407.411. In this case, the appellant requested transportation services between his home and a day program that serves adults with autism. MassHealth denied the request because the adult program does not provide MassHealth-covered services, and that the agency therefore cannot cover transportation. The appellant maintains that he has no other means of transportation to the program, which is medically necessary for him.

MassHealth's determination is supported by the record. As set forth above, MassHealth only pays for transportation when, among other things, a member is "traveling to obtain medical services covered under the member's coverage type." MassHealth determined that the agency does not cover the services at the day program, and the appellant has not presented any evidence to the contrary. Though the appellant's guardian has offered compelling evidence as to his need for services, the regulation plainly only allows for payment of transportation when the member is

traveling to obtain MassHealth-covered services. As such, MassHealth was correct in denying the request for transportation in this case.

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: Katina Dean
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