

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2301420
Decision Date:	6/20/2023	Hearing Date:	03/21/2023
Hearing Officer:	Marc Tonaszuck	Record Open to:	05/23/2023

Appearance for Appellant:

[Redacted], Father of Minor
Appellant

Appearance for MassHealth:

Elizabeth Miner, OT RL, Optum



*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:	Durable Medical Equipment
Decision Date:	6/20/2023	Hearing Date:	03/21/2023
MassHealth's Rep.:	Elizabeth Miner, OT RL, Optum	Appellant's Rep.:	Father
Hearing Location:	Quincy Harbor South		

Authority

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

Jurisdiction¹

The Appellant received a notice dated 02/03/2023, denying the Appellant's prior authorization request for Rifton Pacer gait trainer ("gait trainer"), because MassHealth did not receive adequate documentation to determine whether the gait trainer is medically necessary for the Appellant's condition (130 CMR 450.204(A) and Exhibit 1). On 02/21/2023, a timely appeal was filed with the Board of Hearings on the Appellant's behalf by her father² (130 CMR 610.015(B) and exhibit 2). Denial of assistance is valid grounds for appeal (130 CMR 610.032).

A fair hearing took place before the Board of Hearings on 03/21/2023³, at which time the Appellant's father requested additional time to submit the documentation requested by MassHealth during the deferral period. His request was granted and the record remained open

¹ In MassHealth Eligibility Operations Memo (EOM) 20-09 dated April 7, 2020, MassHealth states the following:

- Regarding Fair Hearings during the COVID-19 outbreak national emergency, and through the end of month in which such national emergency period ends:
 - All appeal hearings will be telephonic; and
 - Individuals will have up to 120 days, instead of the standard 30 days, to request a fair hearing for member eligibility-related concerns.
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² The Appellant is a minor child who was represented in these proceedings by her father (See Exhibit 2).

³ See Exhibit 3.

in this matter until 05/09/2023 for the Appellant's submission and until 05/23/2023 for MassHealth's response (Exhibit 5). Both parties made submissions during the record open period (Exhibits 6 and 7).

Action Taken by MassHealth

MassHealth denied the Appellant's request for prior authorization of a Rifton Pacer gait trainer.

Issue

Is MassHealth correct, pursuant to 130 CMR 409.406(C), in determining that a Rifton Pacer gait trainer is not medically necessary for the treatment of the Appellant's medical condition.

Summary of Evidence

The MassHealth Representative, an occupational therapist, testified telephonically that a durable medical equipment provider submitted a prior authorization request ("PA") for a Rifton Pacer gait trainer for the Appellant on 01/12/2023. The cost for this equipment for MassHealth is \$2,391.66. A letter of medical necessity dated 08/24/2022, from Elizabeth Allen a physical therapist (PT), at was submitted with this request (Exhibit 4).

The MassHealth Representative stated that a gait trainer is a device that resembles a walker with a series of attachments that help support a child when she is first learning to walk. The Representative asserted that if a child is unable to begin walking on his/her own, this device (with accessories) allows the child to be held up so she can learn that skill. The Representative asserted that there is a correct time in the child's life to use a gait trainer. In processing a request for this equipment, the MassHealth considers whether the child has sufficient pre-gait skill so she is likely to progress from this device to something less supportive. In making this determination, the MassHealth looks at a number of factors including the child's ability to reciprocally step, whether the child has sufficient head and trunk control, the child's ability to overcome abnormal tone, the child's ability to bear weight in the lower extremities, and the child's ability to overcome primitive reflexes or motor patterns. The Representative explained that use of a gait trainer before sufficient pre-gait skills are established could result in the child's using her high tone and reflexes to move the gait trainer. If the child compensates for the lack of sufficient pre-gait skills in the manner, she will learn inappropriate patterns of movement that will be more difficult to correct later.

The MassHealth Representative indicated that, at the time the request was submitted, the Appellant was [REDACTED], with epilepsy and developmental delay in the setting of genetic disorder (ongoing workup with Genetics) Her family Just moved from India this past year and is establishing avenues of care at an area hospital. She currently receives weekly physical therapy.

She attends school five days per week. In reading from the letter from the PT, the MassHealth representative noted that the Appellant is has global weakness and low tone. She trialed the equipment with a physical therapist in the hospital office. She required maximum assist for momentum but did initiate movements a few times.

The MassHealth representative testified that MassHealth has guidelines for medical necessity determinations for gait trainers. She stated she reviewed the documentation provided by the provider; however, MassHealth was unable to approve the gait trainer without the complete documentation required by the guidelines. As a result, MassHealth deferred the PA, and requested additional documentation on 01/13/2023. MassHealth requested that the Appellant's provider provide documentation of the home therapy program, members tolerance of same, caregivers ability to follow through with prescribed home program, and the therapeutic goals of the program. MassHealth did not received the requested documentation within 21 days and denied the PA on 02/03/2023 (Exhibits 1 and 4).

The Appellant's father appeared at the fair hearing and testified telephonically that he was not aware of the documentation that MassHealth needed in order to approve the PA. He stated he understood what is necessary and he requested time to have the Appellant's physical therapist to provide the documentation to MassHealth. The request for a record open was approved and the Appellant's submission was due by 05/09/2023. MassHealth's response was due by 05/23/2023 (Exhibit 5).

On 03/29/2023, the Appellant's physical therapist submitted an email that states:

My name is Elizabeth Allen and I am the Physical Therapist who has been working with [the Appellant] at the outpatient PT center at [] Hospital and submitted the letter of medical necessity for a home Rifton Pacer Gait Trainer. I am reaching out in order to inquire more about the reason for denial and if submission for a different standing/ambulation device is necessary. A standing/ambulation device for home is crucial for [the Appellant's] physical, cognitive, and social development. Please let me know how to best proceed forward. I am happy to discuss over the phone at a scheduled time. . .

(Exhibit 7.)

On 05/23/2023, MassHealth submitted an email that states because the necessary documentation was not provided to MassHealth, she remained unable to approve the PA (Exhibit 8).

Findings of Fact

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

1. On or about 01/12/2023, a durable medical equipment provider submitted a request for a Rifton Pacer gait trainer for the Appellant.
2. A gait trainer is a device that resembles a walker with a series of attachments that will help support a child when she is first learning to walk. If a child is unable to begin walking on his/her own, this device (with accessories) allows the child to be held up so she can learn that skill.
3. At the time the request was submitted to MassHealth, the Appellant was [REDACTED], with epilepsy and developmental delay in the setting of genetic disorder.
4. The Appellant has global weakness and low-tone. She trialed the requested equipment with a physical therapist in the hospital office. She required maximum assist for momentum but did initiate movements a few times.
5. On 01/13/2023, MassHealth deferred the PA, and requested additional documentation from the Appellant's physical therapist. MassHealth requested that the Appellant's provider submit documentation of the home therapy program, members tolerance of same, caregivers ability to follow through with prescribed home program, and the therapeutic goals of the program.
6. MassHealth did not receive the requested documentation within 21 days and denied the PA on 02/03/2023.
7. On 02/21/2023, the Appellant appealed MassHealth's denial of the PA.
8. A fair hearing was held before the Board of Hearings on 03/21/2023.
9. At the fair hearing, the Appellant's father requested an opportunity to provide the requested documentation.
10. The Appellant's request was granted and the record remained open in this matter until 05/09/2023 for the Appellant's submission and until 05/23/2023 for MassHealth's response.
11. On 03/29/2023, the Appellant's physical therapist submitted a letter to the hearing officer; however, the requested documentation was not submitted during the record open period.

Analysis and Conclusions of Law

Regulation 130 CMR 409.406(C) states that the MassHealth does not pay for DME or medical/surgical supplies that are not, in its determination, both necessary and reasonable for the treatment of a member's medical condition. This includes, but is not limited to:

(1) items that cannot reasonably be expected to make a meaningful contribution to the treatment of a member's illness or injury;

(2) items that are substantially more costly than medically appropriate and feasible alternative pieces of equipment; or

(3) items that serve the same purpose as those items already in use by the member.

MassHealth medical necessity guidelines for gait trainers states, in part:

MassHealth bases its determination of medical necessity for gait trainers on clinical data including, but not limited to, indicators that would affect the relative risks and benefits of the equipment. These criteria include, but are not limited to, the following:

1. The member is able to stand upright in the device and demonstrates adequate head control, lower extremity and trunk strength (3/5, fair) to be supported in the gait trainer for functional ambulation.
2. The member is not able to ambulate independently due to conditions such as, but not limited to, neuromuscular or congenital disorders, including acquired skeletal abnormalities.
3. The member
 - (a) does not have lower-extremity contractures that would preclude purposeful functional ambulation, and
 - (b) has adequate trunk and lower extremity range of motion (ROM) to support functional mobility.
4. The alignment of the member's lower extremity is such that the foot and ankle can tolerate a standing or upright position as well as independent reciprocal movement.
5. The member does not have complete paralysis of the hips and legs.
6. The member has shown clinically meaningful improvement in purposeful mobility, ambulation, function, or physiologic symptoms, or maintained status with the use of the selected gait trainer during a one-month trial period (e.g., used in an inpatient, school or outpatient setting) as measured by a tool that assesses functional ambulation capacity and the member is able to follow a home therapy program incorporating the use of the gait trainer.
7. ***There is a written home therapy plan (a plan for treatment in the home rather than an institutional setting) developed with emphasis on skill carryover, and goals that target the member's functional use of the requested gait trainer in the home, and there is a caretaker who can appropriately supervise use of the gait trainer.***
8. The member is able to perform functional mobility and participate in Instrumental Activities of Daily Living (IADL) and Activities of Daily Living (ADL) using the requested gait trainer.

9. If the request is for replacement of an existing gait trainer, there is sufficient clinical documentation to support that the member has maintained functional ambulation with the use of the gait trainer and alternatives have been trialed and ruled out.

(Emphasis added.)

MassHealth denied the Appellant's PA because it requested, and did not receive, a written home therapy plan (a plan for treatment in the home rather than an institutional setting) developed with emphasis on skill carryover, and goals that target the member's functional use of the requested gait trainer in the home, and there is a caretaker who can appropriately supervise use of the gait trainer, as required by the above guidelines. The Appellant's father stated he would obtain and submit the above documentation during the record open period; however, none was submitted. MassHealth's decision is supported by the facts in the hearing record, as well as the above regulations and guidelines. Accordingly, this appeal is denied.

Order for the 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.

Marc Tonaszuck
Hearing Officer
Board of Hearings

cc:

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