

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2303451
Decision Date:	6/28/2023	Hearing Date:	05/25/2023
Hearing Officer:	David Jacobs		

Appearances for Appellant:



Appearances for MassHealth:

Sara Pedone, PT



*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:	Prior Authorization (Durable Medical Equipment)
Decision Date:	6/28/2023	Hearing Date:	05/25/2023
MassHealth's Rep.:	Sara Pedone, PT	Appellant's Rep.:	[REDACTED]
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

Through a notice dated March 28, 2023, MassHealth denied the appellant's request for a shower chair and accessories (Exhibit 1). The appellant filed this appeal in a timely manner on April 27, 2023 (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). At the conclusion of the hearing, the record was left open until June 8, 2023 for the appellant to submit additional documentation, then extended to June 20, 2023.

Action Taken by MassHealth

MassHealth denied the appellant's prior approval request for an accessory for a shower chair and accessories.

Issue

The appeal issue is whether the appellant has demonstrated the medical necessity of the requested equipment.

Summary of Evidence

MassHealth was represented by a consultant who testified via telephone as follows: The appellant, is a MassHealth member in his 60's with a diagnosis of a traumatic brain injury he suffered as a child. The appellant's diagnosis results in trouble walking, vision issues, back pain, dementia, and a myriad of other symptoms related to his injury (Exhibit 4, pg. 11). The issue at appeal is the appellant's March 2, 2023 request for a RAZ-AT w/18" w seat and base frame tilting shower chair and various accessories to replace a broken chair in the appellant's home (Exhibit 4, pg. 9). Based on the appellant's medical history MassHealth concedes that the appellant needs a tilting shower chair to take showers safely. However, the requested RAZ-AT shower chair is the "Cadillac of shower chairs" and MassHealth regulations require that the appellant show why a cheaper alternative chair will not meet the appellant's needs. Specifically, the appellant needs to show that other alternative chairs were trialed in the appellant's home and submit a letter from the appellant's physician on why alternative, less expensive alternative shower chairs did not meet the appellant's needs. Therefore, MassHealth denied the appellant's prior authorization request on March 28, 2023 for not including documentation of such alternative trials (Exhibit 1). During the hearing MassHealth suggested an Active Aid or Etac shower chair as possible alternatives.

The appellant appeared telephonically at the hearing along with residence director of the facility where he resides. The director confirmed the appellant's diagnosis and need for a shower chair to safely take showers. She understood MassHealth's position and agreed to trial cheaper alternative chairs in the appellant's home. She testified that doing so would be easy as the appellant has a very large shower space in which to perform such trials.

The record was left open until June 8, 2023 for the appellant to perform the requested trials and submit a letter of the results by the appellant's physician (Exhibit 5). On May 31, 2023 the appellant submitted such a letter as an addendum to the original request. The addendum states as follows:

When choosing the most appropriate and least costly shower chair for [appellant], as stated above the PVC tilt in space chair was ruled out and an Active Aid was ruled out because it was too big and bulky for what [appellant] needed in his shower. The RAZ was the next least costly shower chair, which in by extensive experience with DME, has been very durable for most patients.

[MassHealth] had requested I look at the Etac shower chair, of which I have no experience with. I have never seen one in person and have not ordered one for any of my patients.

[Appellant] has a history of an ulcer on his coccyx, which is why we chose the visco seat. Although he doesn't have an active ulcer currently, when the skin has healed from a previous ulcer it is always more susceptible to opening with an ulcer again and when [appellant] is wet, sitting on a plastic seat, there is always the chance of shearing, especially in the coccyx area since he sits with a posterior tilt. I feel if insurance is choosing to

downgrade the visco seat on this shower chair, I feel that is negligent as [appellant] has a documented history of a coccyx ulcer.

(Exhibit 6, pgs. 2-3)

On June 12, 2023 MassHealth responded to the letter as follows:

The therapist's response to this question addresses one comparable shower chair, the Active Aid, that is less costly and will meet the Member's needs. The rationale to rule this chair out for the Member contradicts the testimony provided in the Appeal. The Member's representative reported the shower in the group home is a large space with room for a shower chair, the Member, and staff. The size of the less costly Active Aid chair is irrelevant in this case and continues to be the less costly option while able to meet the Member's safe bathing requirements. It is also unclear from the addendum provided if the chair was trialed in the Member's home.

MassHealth received medical documentation dated May 31, 2023, from [primary physician]. After review, of the addendum to the original letter of medical necessity, dated 5/31/2023, MassHealth maintains the initial denial of the RAZ shower chair. MassHealth regulations used to support this decision are as follows, 130 CMR 409.405 (C), 130 CMR 409.414(B)(2), 130 CMR 450.204(A)(2), 130 CMR 409.405(e).

(Exhibit 7)

On June 12, the Hearing Officer gave the appellant until June 20, 2023 to respond to MassHealth's findings (Exhibit 9). On June 20, 2023 the appellant submitted an additional letter from the appellant's primary care provider (Exhibit 8). The letter stated, in summary, that a tilting shower chair was medically necessary for the appellant's safety. The Hearing Officer did not require MassHealth to respond to the letter as MassHealth had already conceded that a tilting shower chair is medically necessary.

Findings of Fact

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

1. The appellant is a MassHealth member in his 60's, who had a traumatic brain injury as a child which causes him to have many disabilities including vision impairment, trouble walking, back pain, and dementia.
2. It is necessary for the appellant to use a tilting shower chair while showering to avoid injury.
3. The shower in the appellant's home is a very large space.

4. The shower chair that the appellant previously used is broken and requires replacement.
5. On March 2, 2023, the appellant submitted a prior authorization request for the RAZ-AT w/18" w seat and base frame tilting shower chair and various accessories.
6. On March 28, 2022, MassHealth denied the request because the request did not include documentation from a physician that the appellant had tried cheaper alternative chairs in the home.
7. On April 27, 2023, the appellant filed a timely appeal of the denial.
8. During the hearing MassHealth recommended an Active Aid or Etac shower chair as alternatives for the appellant to trial in the home.
9. The record was held open until June 8, 2023 for the appellant to submit documentation of trials of alternative shower chairs.
10. On May 31, 2023, the appellant submitted a letter from the appellant's physician stating her reasoning for selecting the RAZ-AT chair at issue for this appeal. No trials of alternative chairs were performed.
11. On June 12, 2023, MassHealth rejected the submitted letter from the appellant's physician as being insufficient to demonstrate medical necessity.

Analysis and Conclusions of Law

By regulation, MassHealth will not pay a provider for services that are not medically necessary. Pursuant to 130 CMR 450.204(A), a service is considered "medically necessary" if:

- (1) it is reasonably calculated to prevent, diagnose, prevent the worsening of, alleviate, correct, or cure conditions in the member that endanger life, cause suffering or pain, cause physical deformity or malfunction, threaten or cause to aggravate a handicap, or result in illness or infirmity; and
- (2) **there is no other medical service or site of service, comparable in effect, available, and suitable for the member requesting the service, that is more conservative or less costly to the MassHealth agency.** Services that are less costly to the MassHealth agency include, but are not limited to, health care reasonably known by the provider, or identified by the MassHealth agency pursuant to a prior-authorization request, to be available to the member through sources described in 130 CMR 450.317(C), 503.007: *Potential Sources of Health Care*, or 517.007: *Utilization of Potential Benefits*.

130 CMR 409.414(B) adds:

The MassHealth agency does not pay for the following:

(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);

At issue in this case is MassHealth's denial of the appellant's prior authorization request for a RAZ-AT tilting shower chair that was denied because the appellant did not include documentation that less costly, alternative shower chairs could not meet the appellant's needs. During the hearing, and in the letters the appellant submitted after the hearing there was a lot of emphasis placed on the fact that it is medically necessary for the appellant to use a shower chair while taking a shower. It should be made clear here that MassHealth concedes this point. The issue here is not whether the appellant needs a shower chair, it is whether the appellant needs the specific shower chair he requested. MassHealth's standard for determining this is by requiring the appellant to show documentation that cheaper, alternative chairs were trialed in the home.

MassHealth suggested two less costly shower chairs that the appellant may trial at home, the Active Aid and the Etac chair. During the hearing, and in the later open record letter (Exhibit 5), specific mention was made that these trials must be done in the appellant's home to make sure the chairs meet his needs in the space where they will actually be used. In response to this request the appellant submitted a letter from his physician stating the reasoning for the selection of the RAZ-AT chair. MassHealth rejected this letter as not showing evidence of trials of alternative chairs in the appellant's home.

The physician letter does not make reference to any shower chair trials. Rather, it appears the letter is just the doctor's medical opinion about why the RAZ-AT is superior to the recommended chairs. The doctor criticizes the Active Aid chair for being "too big and bulky" which contradicts the appellant representative's testimony during the hearing; specifically, that the shower space the appellant uses is a very large space. The representative made special note on how big and spacious the shower space was. Therefore, there is no reliable evidence to suggest that any of the available shower chairs would be "too big and bulky" in the appellant's space. Next, the doctor simply dismisses the Etac chair as being unfamiliar to her – a statement which shows the chair was clearly not tried by the appellant.

The letter finishes by stating that the RAZ-AT chair was selected because the appellant has a history of ulcers on his coccyx and requested chair will help him avoid such ulcers in the future. With no evidence that any other showers tried by the appellant in his home, it is not credible that

no other chair would serve the appellant's needs for safety and to help him avoid ulcers. The doctor concedes earlier that she is not familiar with the Etac chair and dismisses it without consideration - this suggests the RAZ-AT chair was not compared to other chairs at all.

In conclusion, the appellant has not met the requirements set forth in 130 CMR 450.204(A)(2) and 130 CMR 409.414(B)(2). Specifically, he has not trialed cheaper shower chairs and provided evidence to show that these less costly chairs will not meet his medical needs. Because it appears that the appellant relied only on his doctor's opinion that the requested RAZ-AT is the only, best choice. MassHealth was correct in denying the appellant's request.

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.

David Jacobs
Hearing Officer
Board of Hearings

cc: Optum