

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2304481
<b>Decision Date:</b>	8/10/2023	<b>Hearing Date:</b>	07/06/2023
<b>Hearing Officer:</b>	Thomas Doyle	<b>Record Open to:</b>	

**Appearance for Appellant:**  
Pro se

**Appearance for Respondent:**  
Kay George, R.N.  
Michaele Freeman, Contract Manager, Office  
of Payment & Care Delivery Innovation-  
observing  
Emily Sabo, BOH Hearing Officer-observing

**Interpreter:**



*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

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Prior Authorization – Power Wheelchair
<b>Decision Date:</b>	8/10/2023	<b>Hearing Date:</b>	07/06/2023
<b>Respondent's Rep.:</b>	Kay George, R.N.	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Remote (phone)	<b>Aid Pending:</b>	No

### Authority

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

### Jurisdiction

On April 26, 2023, Fallon Health (Fallon) denied the appellant's internal appeal of its decision to deny payment for a power wheelchair. (Ex. 2; Testimony). The appellant filed this appeal in a timely manner on June 1, 2023. (Ex. 2). A managed care contractor's decision to limit requested services is grounds for appeal. (130 CMR 610.032(B)).

### Action Taken by Respondent

Fallon Health denied payment for a power wheelchair.

### Issue

The appeal issue is whether the managed-care contractor was correct, pursuant to 130 CMR 450.204 and 130 CMR 409.414, in denying payment for a power wheelchair.

### Summary of Evidence

The appellant appeared telephonically at the hearing. Appellant is a woman in her mid 50's, on MassHealth Standard (Ex. 8), and enrolled in Fallon's health plan, an accountable care organization (ACO) contracted with MassHealth. (Testimony). Fallon was represented telephonically by its Appeals Nurse (hereinafter "Fallon's representative"). Observing the hearing was the Contract Manager for MassHealth's Health Plan Administration and Oversight. Fallon denied a request for prior authorization for a power wheelchair. (Ex. 1). Appellant filed an internal appeal with Fallon, which Fallon denied. (Ex. 2).

Appellant has diagnosis of chronic pain, obesity and diabetes among other medical conditions. (Testimony; Ex. 5, pp. 24-25). Appellant had an in-home evaluation conducted on January 18, 2023. (Ex. 5, p. 67). Appellant lives independently in a one level first floor apartment. Appellant ambulates 50 feet with a cane in the community and uses a wheeled walker within her apartment. Appellant is independent in activities of daily living but needs assistance with bathing and homemaking tasks for which she receives 10 hours of PCA services. At various visits to the doctor's office in the early part of 2023, appellant was ambulating with a wheeled walker; observed to have a normal gait and stance; had full weightbearing and no muscular atrophy. She can navigate stairs at a friend's home using a cane. Appellant uses a cane outside of her home to get into her car, which she drives.

Appellant testified on her own behalf. She stated she has a handicap bathroom. She has fallen six times and has gone to the hospital with a scalp laceration. She states her knees are not fixed and her neuropathy is so bad she cannot feel her knees. She stated she drives her own car and orders her groceries online and goes and picks them up. She said she takes Percocet everyday and is in a lot of pain. She stated her walker has wheels on the front and she uses it in her home and uses her cane outside to get into her car. She also testified she uses her cane on the stairs at her friend's house.

## **Findings of Fact**

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

1. Appellant is in her mid-50's and a female member of MassHealth who participates in Fallon Health Plan ACO. (Testimony; Ex. 5, p. 67).
2. Appellant has a diagnosis of chronic pain, obesity and diabetes among other medical conditions. (Testimony; Ex. 5, pp. 24-25).
3. Appellant lives independently in a one level first floor apartment. Appellant ambulates 50 feet with a cane in the community and uses a wheeled walker within her apartment. Appellant is independent in activities of daily living but needs assistance with bathing and

homemaking tasks for which she receives 10 hours of PCA services. (Testimony; Ex. 5, p. 67).

4. Appellant had an in-home evaluation take place on [REDACTED] 2023. (Testimony; Ex. 5, p. 67).
5. At a doctor's visit on [REDACTED] 2023, appellant was ambulating with a wheeled device. (Ex. 5, p. 46).
6. At a doctor's visit on [REDACTED] 2023, appellant had a normal gait and stance. (Ex. 5, p. 52).
7. At a doctor's visit on [REDACTED] 2023, appellant had full weightbearing, a normal gait and no muscular atrophy. (Ex. 5, p. 54).
8. Appellant can navigate stairs at her friend's home using a cane. (Testimony).
9. Appellant uses a cane outside to get into her car, which she drives. (Testimony).

## Analysis and Conclusions of Law

The appellant has the burden "to demonstrate the invalidity of the administrative determination." Andrews v. Division of Medical Assistance, 68 Mass. App. Ct. 228 (2007).

MassHealth members younger than 65 years old, except those excluded under 130 CMR 508.004, must enroll in the Primary Care Clinician (PCC) Plan or a MassHealth-contracted MCO available for their coverage type. 130 CMR 450.117(A) and 130 CMR 508.002. A member enrolled in an MCO obtains all medical services through the MCO except those services not covered under the MassHealth contract with the MCO. 130 CMR 450.117(B)(2). MCO members may appeal a determination made by an MCO if the member has exhausted all remedies available through the contractor's internal appeals process. 130 CMR 508.006(B). "All medical services to members enrolled in an MCO (except those services not covered under the MassHealth contract with the MCO, family planning services, and emergency services) are subject to the authorization and referral requirements of the MCO." 130 CMR 508.004(B)(2).

Pursuant to MassHealth regulation 130 CMR 450.204, MassHealth will not pay a provider for services that are not medically necessary. MassHealth's regulations define a service as being "medically necessary" if it is:

- (1) 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 to cause or 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 Division. Services that are less costly to the Division, include, but are not limited to, health care reasonable known to the provider, or identified by the Division pursuant to a prior authorization request, to be available to the member through sources described in 130 CMR 450.317(C), 503.007, or 517.007.

130 CMR 450.204(A).

In the absence of specific MassHealth guidelines, Fallon refers to Centers for Medicare and Medicaid Services (CMS) Local Determination (LCD) Power Mobility Devices L33789. (Ex. 5, p. 9). The CMS coverage criteria includes, 1) the beneficiary has a mobility limitation that significantly impairs her ability to participate in one or more mobility related activities of daily living (MRADL), such as toileting, feeding, dressing, grooming and bathing; 2) the beneficiary's mobility limitation cannot be sufficiently and safely resolved by the use of appropriate fitted cane or walker; 3) the beneficiary does not have sufficient upper extremity function to self-propel an optimally configured manual wheelchair in the home to perform MRADL's during a typical day. (Ex. 5, p. 111). Appellant does not meet the criteria followed by Fallon for a power wheelchair and also does not meet medical necessity requirements. She ambulates 50 feet with a cane in the community and uses a wheeled walker within her apartment. Appellant is independent in activities of daily living but needs assistance with bathing and homemaking tasks for which she receives 10 hours of PCA services. (Testimony; Ex. 5, p. 67). At doctor's visits in early 2023, appellant was observed ambulating with a wheeled device. She had a normal gait and no muscular atrophy. Appellant testified that she could navigate stairs at her friend's home using a cane. She uses her cane outside her home to get into her car, which she drives. (Testimony). While the record reflects appellant experiences pain, (Ex. 5, p. 67), it is a reasonable assumption that appellant has full use of her upper extremities due to the fact she can use a cane, a wheeled walker, navigate steps and drive her own car and can she perform independently her activities of daily living. (Ex. 5, p. 68). Regarding medical necessity, there is another medical service comparable in effect, available, and suitable for the member requesting the service, that is more conservative or less costly to the division, namely a wheeled walker with a seat, for in home use, that would help appellant rest during ambulation. There was no proof offered by appellant that a power wheelchair would improve safety of the only mobility related activity of daily living that requires assistance, namely, standing by getting out of the shower.

Appellant has not met her burden and Fallon was correct in finding that the request for a power wheelchair was not warranted due to a lack of medical necessity. (130 CMR 409.414 (B)). The appeal is denied.

## Order for Respondent

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.

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Thomas Doyle  
Hearing Officer  
Board of Hearings

cc:

MassHealth Representative: Fallon Health, Member Appeals and Grievances, 10 Chestnut Street, Worcester, MA 01608