

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2308717
Decision Date:	11/07/2023	Hearing Date:	10/24/2023
Hearing Officer:	Radha Tilva		

Appearance for Appellant:



Appearance for MassHealth:

Robin Brown, Optum Rep.



*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:	Prior Authorization - DME
Decision Date:	11/07/2023	Hearing Date:	10/24/2023
MassHealth's Rep.:	Robin Brown	Appellant's Rep.:	
Hearing Location:	Quincy Harbor South	Aid Pending:	No

Authority

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

Jurisdiction

Through a notice dated September 6, 2023, MassHealth denied the appellant's request for prior authorization of a Rifton Medium Hi-Lo Activity Chair (Exhibit 1). The appellant filed this appeal in a timely manner on October 17, 2019 (see 130 CMR 610.015(B) and Exhibit 2). Denial of a prior authorization request for durable medical equipment is valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied Appellant's prior authorization request for a medium hi-lo activity chair.

Issue

The appeal issue is whether MassHealth was correct in denying appellant's prior authorization request for an adjustable activity chair?

Summary of Evidence

MassHealth received a request on August 17, 2023, from Numotion for a Rifton medium hi-lo adjustable activity chair. The prior authorization request was reviewed on September 6, 2023 and denied. The cost of the requested chair was \$3,290.80 (Exhibit 5, p. 10). A letter of medical necessity from [REDACTED], P.T., accompanied the request and stated, in part, the following:

Appellant is [REDACTED] years old female with a history of Rett Syndrome, global developmental delay, oropharyngeal dysphagia, ataxia, amblyopia, bruxism, communication delay, constipation and low bone density. With minimal to moderate assist, appellant maintains standing at a support surface with forearm prop 1-2 minutes. She demonstrates lateral thoracic deviation to the right and weight shift over the left lower extremity greater than right lower extremity. She requires moderate assist to complete sit to stand transfers. She uses a gait trainer at home and school for ambulation. For prolonged standing greater than 1-2 minutes at a time, she requires a stander at school. For longer distances, she requires the use of an adaptive stroller for safe mobility.

The Rifton Activity Chair will allow her to maintain upright seated position with lateral supports to promote optimal alignment. It is essential that she is positioned in optimal alignment to minimize risk of progression of abnormal spinal curvature. She will have repeated opportunities to practice active and dynamic sitting while doing functional seated tasks.

The Rifton Activity Chair is designed to enable functional sitting positions with an adjustable prompt system that allows for growth and increasing/decreasing support based on functional abilities. The tilt-in-space, a standard feature with the chair, promotes active, functional sitting and ease of transfers, as well as recline for rest. It is essential for her to have many repeated opportunities throughout her day, to practice purposeful and meaningful movements in order to learn meaningful motor skills such as active, dynamic sitting, for doing functional seated tasks.

Due to the widebase of her current Ormesa push chair she is unable to access certain areas of her home are limited. Limited accessibility leads to decreased participation and inclusion during family activities, mealtimes, and at home therapy services, which may lead to isolation and increased anxiety. The Rifton Activity Chair provides lateral supports, which promotes proper alignment in an upright seated position, reduces risk of progression of abnormal spinal curvature and promotes participation in therapy services. The Rifton Activity Chair has the ability to change seat height, which would expand access to different areas of the home and various set ups during at home therapy services. She uses the Rifton Activity Chair at school and tolerates positioning in it for at least 1.5 to 2 hours. The Rifton Activity chair allows for ease of transfers, which reduces risk of caregiver burnout...The Rifton Activity Chair with the

above specifications is recommended as the most appropriate seating system for appellant. It is recommended that she use the system at least 60 minutes daily at least one time per day in the home setting to obtain the benefits described.

Prior to hearing the appellant also submitted additional documentation from Dr. [REDACTED], a letter from a PT specialist from [REDACTED], and a letter from the family highlighting the specifics of configuration of the existing Ormesa bug stroller that appellant currently uses (see Exhibit 6). The letter from the physical therapist at appellant's school was dated September 28, 2023 and states that appellant is transferred out of her adaptive stroller and positioned in the Rifton Hi-Lo Activity chair to help increase access to her communication system and table top academics, and for increased interaction with her peers (Exhibit 6, pgs. 3-4). The letter from Dr. [REDACTED] outlines the benefits of the Rifton Chair to a standard stroller which includes advantages to her social and emotional well-being.

The MassHealth representative testified that appellant lives with family, uses leg braces and has a Firefly adaptive chair in the home. In addition, she uses a speech generating device. Appellant attends outpatient PT and walks with a gait trainer. She participates in daily sitting at the school with the Rifton Chair. The MassHealth representative further testified that based on the measurements submitted the Rifton Activity Chair is actually wider than her current chair.

MassHealth relied upon 130 CMR 405.204(A) and 409.414(B)(2) and (3) in denying the requested DME. The MassHealth representative explained that the current wheelchair has options that are available to make it more adjustable. The representative suggested that a less costly alternative would be an indoor compact base and feeding base. In addition, the MassHealth representative stated that there is nothing in the letter of medical necessity which shows that they are looking for the less costly option. The representative further testified that there are different types of mounts and conversion kits available for appellant's existing wheelchair which make it less costly than the requested Rifton Activity wheelchair. The representative stated that MassHealth cannot unfortunately consider what is more convenient for the caregiver as a reason for approval.

The appellant was represented by his mother and testified to the following: appellant's current Ormesa wheelchair is not height adjustable which would be beneficial for appellant developmentally. Moreover, the Ormesa wheelchair has a plush seat which is not easily wipeable and is time consuming to clean requiring screwing and unscrewing from the base (see Exhibit 6, p. 8). The appellant has multiple accidents and spills from feeding and incontinence. The Rifton chair is much easier to clean and is height adjustable making it a better option for appellant. In addition, the wheelchair weighs approximately 28 pounds making it hard for her to bring into and out of the house. Thus, the appellant does not use the Ormesa stroller in the house and leaves it in the garage as it does not fit into the hallway leading into the house. The existing base on the Ormesa stroller does not provide height adjustment. The appellant presently uses a standard feeding chair and highchair at home which is meant for 0 to 3 year olds. The firefly chair that is at the house is broken and not usable. The Ormesa stroller has additional bases for purchase (the hi-low base),

but those are not transportation safe and moving between the bases requires extensive manipulation to exchange from the four wheelbase for the stroller to the hi-low base. At school, the appellant is transferred out of her stroller and into the Rifton Activity Chair. If they want to bring her current stroller into the house, they have to first carry the appellant physically into the home and place her on her bed or on the floor, as she is a fall risk requiring constant supervision, and then they can bring the stroller in. It is uncomfortable for her to be transferred in and out of her chair multiple times a day. The hi-low base that MassHealth is proposing is not a usable alternative as it would break the mother's back to lift it.

Findings of Fact

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

1. MassHealth received a request on August 17, 2023 from Numotion for a Rifton medium hi-lo adjustable activity chair.
 - a. The cost of the requested chair was \$3,290.80.
2. The prior authorization request was reviewed on September 6, 2023 and denied.
3. The appellant presently uses the Ormesa stroller without an adjustable hi-low base.
4. The stroller is not brought into the appellant's house and left in the garage for travel to and from school or to appointments.
5. At school the appellant uses the Rifton Activity Chair, provided by her school, and tolerates it well.
6. Appellant's physical therapist and physician feel that the Rifton Activity Chair would be better to meet appellant's developmental needs for a number of reasons.
7. Cleaning the Ormesa stroller is time consuming as the chair has to be taken apart to do so.
8. The family uses a standard feeding chair at home.
9. Appellant believes that the hi-low base that MassHealth is not a reasonable alternative as the stroller is too heavy for her to lift numerous times a day.

Analysis and Conclusions of Law

MassHealth may only pay medical providers for certain services, including durable medical equipment (DME), if the particular service is found to be "medically necessary." The regulatory

definition of medical necessity is set forth at 130 CMR 450.204, which states in relevant part as follows:

(A) A service is "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 to cause or 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, or 517.007.

(Emphasis added). MassHealth does not pay for DME that:

(1) cannot reasonably be expected to make a meaningful contribution to the treatment of a member's illness 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).¹

(Emphasis added. 130 CMR 409.414(B)).

MassHealth pays for the replacement of a member's mobility system only when:

(1) (a) the cost of repairing or modifying the existing mobility system would exceed the value of that system; or

(b) the member's physical condition has changed enough to render the existing mobility system ineffective; and

(2) the DME provider has obtained prior authorization.

130 CMR 409.413(E).

Pursuant to 130 CMR 409.405, it is the provider's responsibility to, *inter alia*,

¹ Referring to a manual wheelchair as a backup to a power mobility system.

(Q) instruct the member, or the member's caregiver, in the appropriate use of the DME furnished to the member. Such instruction must include, but not be limited to, the provision of appropriate information related to setup, features, routine use, troubleshooting, cleaning, infection control practices, and other issues related to the use and maintenance of all DME provided...The DME provider must tailor training and instruction materials and approaches to the needs, abilities, learning preferences, and language of the member and caregivers, as appropriate. The DME provider must document the provision of such instruction in the member's record...

(R) ensure that the member and the member's caregivers, as appropriate, can use all DME provided safely and effectively in the settings of anticipated use.

Appellant has not met her burden of demonstrating that MassHealth's denial of the Rifton Activity chair was incorrect under the regulations. MassHealth denied the request because the appellant's existing chair has adaptable mounts and attachments which would make it a comparable and less costly alternative to the requested Rifton Activity chair. Though the evidence supports that the Rifton Activity chair would certainly be better for appellant the regulations do not support approval without looking at reasonable and less costly alternatives. The letters that appellant provided from the physical therapists and physicians do not detail how the mounts and attachments that could be approved by MassHealth for her existing chair would not provide for adjustment, the ability to use her communication system, or ease of cleaning after feeding, etc... It is the provider's responsibility, per 130 CMR 409.405(Q) and (R) to instruct the appellant on appropriate set up, features, cleaning, and other issues related to the use and maintenance of the DME provided.

Based on the above analysis, appellant did not meet her burden of establishing that MassHealth's decision to deny the chair was an error. 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.

Radha Tilva
Hearing Officer
Board of Hearings

cc:

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