

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2309339
Decision Date:	2/27/2024	Hearing Date:	01/04/2024
Hearing Officer:	Scott Bernard		

Appearance for Appellant:

 (Daughter)

Appearance for MassHealth:

Katina Dean, Transportation Unit, *via* video conference

Ron Rambo (Observing) *via* video conference



*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:	Transportation
Decision Date:	2/27/2024	Hearing Date:	01/04/2024
MassHealth's Rep.:	Katina Dean, Transportation Unit	Appellant's Rep.:	Pro se; daughter
Hearing Location:	Taunton MassHealth Enrollment Center		

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 October 2, 2023¹, MassHealth denied the appellant's prescriptions for transportation (PT-1) to an Adult Day Health program because the Adult Day Health provider supplied their own transportation. (See 130 CMR 407.411 and Exhibit (Ex.) 1). The appellant filed this appeal in a timely manner on October 5, 2023. (See 130 CMR 610.015(B) and Exhibit (Ex.) 2). Denial of assistance is valid grounds for appeal. (See 130 CMR 610.032).

On October 11, 2023, the Board notified the appellant that it would dismiss the appeal unless he signed an enclosed form, or the appellant submitted written authorization for another to represent him within 10 days. (Ex. 4). In response, the appellant's representative (the appellant's daughter) submitted several documents showing that she had authority to represent the appellant. (See Ex. 5, Ex. 6; Ex. 7).

Action Taken by MassHealth

MassHealth denied the appellant's request for transportation to and from an Adult Day Health provider.

¹ The notices state October 6, but the MassHealth representative corrected this to October 2, which is the date that will be used.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 407.411, in determining that the request for transportation services should be denied.

Summary of Evidence

The MassHealth representative testified to the following by video conference: The appellant is an individual over the age of 65. (Ex. 1; Ex. 3). On October 2, 2023, MassHealth denied the appellant's PT-1 requests for transportation from his home to the address of the Adult Day Health Center (the Center). (Ex. 1). The MassHealth representative stated that MassHealth denied the requests because the Center is an Adult Day Health Program which has agreed to provide its own transportation for the appellant, under contract with MassHealth. Therefore, MassHealth could not approve this request for transportation services because it was duplicative.

The appellant's representative stated that for the last two plus years the local regional transportation agency has transported the appellant (her father) to the Center as part of a COVID grant. Recently that agency contacted the Center stating that the grant was ending, and they were going to remove the appellant from transportation.

The appellant's representative stated that the issue is that the appellant requires 24 hour supervision because of his Alzheimer's. (Ex. 6, p. 2). The appellant's representative stated that the appellant lives with her family. The appellant's representative stated that she works full time. The appellant's representative said that she also is a single mother for her three children. The appellant's representative said that the three children all go to different schools and daycare in their town. The appellant's representative stated that the appellant's current transportation services pick him up from home between 7:30 a.m. and 7:40 a.m. in the morning, and he arrives at the Center at 8:00 a.m. The appellant's representative stated that in the afternoon he is picked up at the Center and arrives home at 4:00 p.m., which is after she gets home from work and picking her children up from school.

The appellant's representative stated that the Center's transportation would result in the appellant being dropped off at home well before 4:00 p.m. The appellant's representative then read from the letter written by the director of the Center, which stated:

...This letter is to inform you that the transportation services provided by our center would not be conducive to the work schedule kept by the caregivers for [the appellant], the current transportation schedule returns [the appellant] to his home after 4pm each afternoon, allowing his caregivers to work and rest. Transportation services provided by [the Center] would return [the appellant] to his home between 2:30/2:45pm, which would leave [the appellant] home without supervision. Due to his mental health diagnosis in addition to being an elopement risk, [the appellant]

requires supervision around the clock. Another concern affecting his transportation is his inability to remain seated and buckled in a vehicle for long periods of time, but less than 2 hours as per policy...(Ex. 10).

The MassHealth representative stated that she was sympathetic to the appellant's representative's situation. She explained, however, that as part of its Adult Day Health services provider agreement with MassHealth, the Center is obligated to provide transportation services. The MassHealth representative stated that the Center bills MassHealth under a claim code stating that they provide those services. The MassHealth representative concluded by stating that were MassHealth to approve the appellant's separate request for transportation, there would be a duplication of services, which is not permitted under MassHealth regulations.

The appellant's representative stated that while she understood MassHealth's point of view, if the appellant was not granted the transportation, she would need to place him in long term care. She argued that this would be a much bigger expense for MassHealth than providing transportation. She said that she also did not understand what the MassHealth representative meant about the duplicative billing, because he has never received transportation services from the Center but from the regional transportation agency. The appellant's representative stated that in that case the Center was billing MassHealth for transportation services they were not providing.

Findings of Fact

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

1. The appellant is an individual over the age of 65. (Testimony of the MassHealth representative; Ex. 1; Ex. 3).
2. The appellant lives with his daughter and her three children. (Testimony of the appellant's representative).
3. The appellant requires 24 hour supervision because of his Alzheimer's. (Testimony of the appellant's representative; Ex. 6, p. 2).
4. The appellant attends the Center, which is an Adult Day Health Program. (Testimony of the MassHealth representative).
5. For the last two plus years, the local regional transportation agency has provided transportation services to the appellant as part of a COVID grant. (Testimony of the appellant's representative).
6. The appellant's current transportation arrives to pick the appellant up from his home between 7:30 a.m. and 7:40 a.m. in the morning, and he is dropped off at the Center at 8:00 a.m. (Testimony of the appellant's representative).

7. In the afternoon the appellant is picked up at the Center and arrives home at 4:00 p.m., which is after the appellant's representative gets home from work and picking her children up from school. (Testimony of the appellant's representative).
8. Recently the regional transportation agency contacted the Center stating that the grant was ending, and they were going to remove the appellant from transportation. (Testimony of the appellant's representative).
9. The Center's transportation would return the appellant to his home between 2:30 and 2:45 p.m., which would be before the appellant's representative arrives home. (Ex. 10).
10. The appellant, through his provider, submitted requests for transportation services to MassHealth. (Ex. 1).
11. On October 2, 2023, MassHealth denied the appellant's PT-1 requests for transportation from his home to the address of the Center. (Ex. 1; Testimony of the MassHealth representative).
12. As an Adult Day Health Program under contract with MassHealth, the Center has agreed to provide its own transportation. (Testimony of the MassHealth representative).
13. MassHealth denied the request for transportation because it would result in a duplication of services. (Testimony of the MassHealth representative).

Analysis and Conclusions of Law

Transportation Utilization Requirements

(B) Noncovered Services. The following are examples of transportation services that are not covered by MassHealth:

- (1) transportation to child day-care centers and nurseries;
- (2) transportation of persons who are elderly or disabled to adult day health programs, except when arranged by special contract with the MassHealth Adult Day Health Program;
- (3) transportation to schools, summer camps, and recreational programs (for example, swimming classes);
- (4) transportation of family members to visit a hospitalized or institutionalized member;
- (5) transportation to a medical facility or physician's office for the sole purpose of obtaining a medical recommendation for homemaker/chore services;
- (6) transportation to government-agency offices;
- (7) transportation to visit a child in foster-care placement or in group-care placement;
- (8) transportation to a medical service that is within 0.75 miles of the member's home or other MassHealth agency-approved point of origin, when the member is able to ambulate freely with or without an escort;

- (9) transportation to pharmacies to obtain medications; and
- (10) transportation to obtain computerized axial tomography (CAT) scans at a facility other than one that has been issued a Certificate of Need by the Massachusetts Department of Public Health.

(130 CMR 407.411(B)).

MassHealth 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(A)). As noted above, there are several transportation services that are not covered by MassHealth. These include transportation of persons who are elderly or disabled to Adult Day Health Programs, except when arranged by special contract with the MassHealth Adult Day Health Program. (130 CMR 407.411(B)(2)).

The appellant is attending an Adult Day Health Program. The ADH program has a contract with MassHealth to provide transportation services, and thus MassHealth covers the transportation services provided by the ADH program. (see 130 CMR 404.413(A)). Although it is understood that the appellant cannot be left without supervision, and the appellant's ADH Program does not seem to be able to provide transportation for the appellant at times that would ensure that the appellant would arrive home when there is a person present, it is that program's responsibility to ensure that the appellant is provided with safe transportation. MassHealth correctly denied the requests for transportation services, because it is not permitted under the regulations.

For the above reasons, the 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.

Scott Bernard
Hearing Officer
Board of Hearings

cc: Katina Dean, MAXIMUS - Transportation, 1 Enterprise Drive, Suite 310, Quincy, MA 02169