

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2311205
Decision Date:	01/25/2024	Hearing Date:	12/04/2023
Hearing Officer:	Radha Tilva	Record Open to:	1/03/2024

Appearance for Appellant:

Pro se

Appearance for Commonwealth Care Alliance:

Cassandra Horne, Appeals and Grievances Manager

Jeremiah Manusco, Medical Manager of Appeals and Grievances

Kaley Ann Emery, Appeals Supervisor



*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 – dog training
Decision Date:	01/25/2024	Hearing Date:	12/04/2023
CCA's Rep.:	Cassandra Horne; Jeremiah Manusco; Kaley Ann Emery	Appellant's Rep.:	Pro se
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 November 8, 2023, Commonwealth Care Alliance (CCA) denied the appellant's prior authorization request for "evaluation for assistive technology" for appellant's service dog (Exhibit 1). The appellant filed this appeal in a timely manner on November 9, 2023 (see 130 CMR 610.015(B) and Exhibit 2). Challenging a prior authorization request is valid grounds for appeal (see 130 CMR 610.032).

At hearing, the record was left open for appellant to receive assistance from CCA in submitting a paginated record. On December 8, 2023, the Hearing Officer received correspondence but was unable to open the attachment. The Hearing Officer requested that CCA assist appellant in submitting her documents. The record was submitted by CCA on behalf of appellant on January 3, 2024.

Action Taken by Commonwealth Care Alliance

CCA denied appellant's prior authorization request for evaluation of assistive technology.

Issue

The appeal issue is whether MassHealth was correct in denying appellant's prior authorization request for evaluation of assistive technology.

Summary of Evidence

At the hearing, Commonwealth Care Alliance (CCA) was represented by the Appeal and Grievances Manager, Appeals Supervisor, and Medical Manager of the Appeals and Grievance Unit. The appellant appeared on her own behalf and the hearing was conducted virtually. CCA explained that appellant has been a member of CCA's One Care program since [REDACTED]. On October 5, 2023, CCA received a request for assistive technology 15 minute increments, CPT code 97755. It was clarified at hearing that the request was for more dog training services. A denial was issued on October 18, 2023, which the member appealed promptly on October 19, 2023. A review was done and a final level 1 denial was issued on November 8, 2023 (Exhibit 1). The reviewer rationale letter specifically states that the member is seeking financial coverage for an undetermined quantity of dog training visits over an undetermined period of time for her dog from an out of network vendor that does not accept insurance (Exhibit 4, p. 4). The level 1 denial letter states that the reviewer agreed with the initial decision and denied the request for assistive technology (dog training) as dogs are not considered technological applications (Exhibit 1, p. 2). In addition, a request for coverage of a non-covered benefit must be reasonable and medically beneficial (Exhibit 1, p. 2). The service requested is unreasonable and not medically needed and given the provided documentation, appellant does not meet the guidelines for the requested service (*Id.*).

The CCA representative stated that CCA approved dog training for appellant in June 2023. The review documentation submitted by CCA stated that six dog training sessions through the provider, Donna's Do Right Dogs, was approved using CPT code "A9900 Miscellaneous DME supply, accessory, and/or service component of another HCPCS code" (Exhibit 4, p. 5). Despite the approval, however, the single case agreement was rejected by the provider who stated on the phone to a CCA representative that she could not submit a medical claim (*Id.*). The CCA representative stated that despite the last approval for dog training the request has never been approved by Medicare or Medicaid so an approval would have to meet a benefit exception under CCA's provider handbook.

The rationale behind the denial was based upon multiple regulatory guidelines as explained at hearing and included in the record. Per CMS (Centers for Medicare and Medicaid Services) for CPT 97755 – the code "is related to the following local coverage determinations (LCDs): Outpatient Physical Therapy, Outpatient Occupational Therapy, Home Health Occupational Therapy, and Home Health Physical Therapy" and "should only be billed by occupational and physical therapists that have the additional knowledge and expertise of the assistive technology that is required for these individuals." CCA argued that, based on this guideline, the member does not meet the

criteria for approval as she filed the prior authorization request on her own and did not include any official request for the service from an OT or PT. CCA also argued that dog training is not a technology application and does not fall under the criteria of “assistive technology.” Under the American with Disabilities Act (ADA), assistive technology is defined as any item, piece of equipment or product system used to increase, maintain, or improve functional capabilities of individuals with disabilities. Similarly, per the Assistive Technology Act (ATA), assistive technology device is any item, piece of equipment, or product system...that is used to increase, maintain, or improve functional capabilities of individuals with disabilities (Exhibit 4, pg. 4-5). Lastly, CCA argued that the prior authorization request does not fall under a non-covered benefit either as it does not meet the reasonableness or medically beneficial requirements. Specifically, CCA stated that reasonable is defined as “of modest or moderate costs outweighed by other cost savings or benefits” (Exhibit 4, p. 5). Proper training of a service dog, however, will take years and requires ongoing maintenance training which can cost thousands of dollars.

Appellant appeared at the hearing virtually and argued that dog training is a form of assistive technology and should be covered by CCA. The appellant got her service dog at three months and as soon as she got it, her life became emotionally better (appellant testimony). The appellant explained that one cannot disability task train a dog and that it takes a professional trainer time to do so. Moreover, the appellant testified that it takes assistive technology in order make her a service dog and she does not see how her dog does not fit into the definition of assistive technology. The appellant feels that is it discriminatory to deny her the dog training her service dog needs. When asked if appellant approached other agencies to try to get them to pay for it, she responded that Mass Rehabilitation Commission thought that CCA was paying for it.

Appellant submitted numerous documents in support of her prior authorization request. Appellant’s submission for hearing includes a statement written by her which communicates the progress in appellant’s life in relation to panic attacks and her relentless anxiety (Exhibit 6). The letter further states that her dog has passed a 10 week course and completed day training for 6 weeks from payment through CCA (*Id.*).¹

Her submission included a letter dated July 17, 2022 addressed to Massachusetts Rehabilitation Commission by [REDACTED], which outlines that appellant suffers from chronic, severe anxiety disorder associated with ADHD, chronic PTSD, and autism which manifest in disabling anxiety, panic attacks, hypersensitivity, impaired social interactions, difficulty concentrating, and difficulty completing tasks (Exhibit 6, p. 3). The letter strongly recommends that appellant be offered a chance to have a service dog with associated training for the dog’s needs in order to mitigate the effects of appellant’s disability (Exhibit 6, p. 4).

In addition, a progress note dated April 9, 2021 was included which notes that appellant was

¹ CCA disputed this at hearing and stated that they never were able to enter into an agreement with the provider. Further, a document dated January 6, 2023 supports that Massachusetts Rehabilitation Commission approved the service dog and training of the dog from January 6, 2023 through April 30, 2023 (Exhibit 6, p. 19).

seeing outpatient therapists since adolescence and reports finding SSRIs, Risperdal, and gabapentin ineffective, but finds Lamictal successful (Exhibit 6, p. 4). An outpatient clinic treatment note from occupational therapy was also included and stated that a service dog would provide neurological input to reduce overactive neurological responses and would result in improved efficacy, improved tolerance, and improved neurological tolerance (Exhibit 6, p. 11). A note dated June 14, 2021 from [REDACTED] states that a service dog would be a reasonable approach to help her treatment of PTSD and recommends EMDR therapy as well which he believes would be quite helpful (Exhibit 6, p. 12).

An approval letter from Massachusetts Rehabilitation Commission was included in appellant's packet authorizing the matching of a dog and the training of the animal over a period of time for dates of service January 6, 2023 to April 30, 2023 (Exhibit 6, p. 19). A neuropsychiatric evaluation from [REDACTED] recommended ongoing psychotherapy to treat emotional and psychological difficulties as well as medication consultations to treat anxiety and depression (Exhibit 6, pp. 28-47).

A letter from an occupational therapist from Outpatient Mobile Solutions, dated March 20, 2023, was also submitted. This letter supported financial funding for service animal training, day training, and any necessary future support services to facilitate successful utilization of this medically necessary tool (Exhibit 6, p. 20). The letter further stated that service dog training requires specific training to allow use as a successful medical tool in various environments and situations which requires paid training sessions with a qualified professional (*Id.*). In addition, a progress noted dated May 19, 2021 recommends that appellant would benefit from full Dialectical Behavior Therapy protocol and a non-narrative version of EDMR to help with trauma focused therapy (Exhibit 6, p. 51-52).

Findings of Fact

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

1. On October 5, 2023 CCA received a request for assistive technology 15 minute increments, CPT code 97755.
 - a. The request was for more dog training services for appellant's service dog.
2. On October 18, 2023 CCA issued a denial of the request which was appealed on October 19, 2023.
3. CCA previously approved a request for dog training services in June 2023, however, appellant's provider rejected the agreement because she could not submit a medical claim.
4. Massachusetts Rehabilitation Commission approved the matching of a dog and training of

the animal over a period of time for dates of service January 6, 2023 to April 30, 2023.

5. Dog training services is not a covered benefit under CCA.
6. In order to meet a non-covered benefit exception under CCA the service requested must be “reasonable and medically beneficial.”
7. Appellant suffers from anxiety, ADHD, chronic PTSD, and autism which manifests into anxiety, panic attacks, hypersensitivity, impaired social interactions, difficulty concentrating, and difficulty completing tasks.
 - a. Appellant’s service dog has helped appellant emotionally.
8. Therapies such as EMDR, ongoing psychotherapy, and dialectical behavior therapy have been recommended to help appellant.

Analysis and Conclusions of Law

The issue on appeal is whether CCA erred in denying additional dog training lessons. The appellant contends that the service is assistive technology. CCA did not err in determining that the request for dog training lessons does not equate to assistive technology. CCA’s argument is supported by both the ADA national network definition of assistive technology as well as the Assistive Technology Act of 1998 which state that assistive technology ***is a piece of equipment or product system*** used to increase, maintain, or improve the functional capabilities of an individual with disabilities (Emphasis added). Dog training does not fall within the definition of piece of equipment or a product system. As such, the requested service is correctly denied based on requested CPT code of 97755.

Moreover, dog training is not a covered service under CCA’s One Care Member handbook (Exhibit 5, p. 31). Services that CCA covers includes medical care, behavioral healthcare, long-term services and supports, supplies, prescription and over-the-counter (OTC) drugs, equipment, and others (*Id.*). Covered services are any of these services that our plan pays for. Covered services are listed in the Benefits Chart in Chapter 4, Section D (*Id.*). Upon review of said Benefits Chart, no services for dog training are listed as a covered benefit (Exhibit 5, pp. 58 – 115). Thus, the review proceeds to whether dog training services are covered as a non-covered benefit.

A non-covered benefit is a service/resource that is not covered by Medicare and/or Medicaid that CCA care teams may consider medically necessary.² These are, normally, rare exceptions to the yearly CCA benefit plan for a specific member based on their unique health needs,

² <https://www.commonwealthcarealliance.org/wp-content/uploads/2023/12/Non-Covered-Benefit-MNG-100.P.pdf> (last visited January 22, 2024).

clinical context or “story.” Such exceptions can be shown or reasonably anticipated to show a clear clinical value to the individual member and to CCA’s overall programming for all members.

A member may be eligible for coverage of a non-covered benefit, which may be called a “benefit exception,” when CCA is provided with a documentation of medical necessity, which includes clear determination of need and rationale by the member’s care provider, ordering clinician or care team member, for how this service/resource will improve a member’s individualized care plan. A member may receive a specified service/resource after a medical necessity review is completed, which includes an individualized risk assessment, and well documented rationale showing how the benefit may be both reasonable (1) **and** medically beneficial (2).

- (1) Reasonable - Of modest or moderate cost outweighed by other cost savings or benefits
- (2) Medically beneficial - Of reasonable likelihood to significantly improve a member’s health and quality of life

(CCA Non-Covered Benefit – Medical Necessity Guideline (2023)).³

Appellant has failed to demonstrate the medical necessity of the prior authorization request by failing to submit a clear rationale letter from her care provider which documents how the resource will improve her individualized care plan. Moreover, the prior authorization request has not met the reasonableness criteria as required under the member handbook. Upon review of the medical documentation submitted by appellant multiple alternate therapies and modalities such as EDMR, dialectical behavior therapy, and ongoing psychotherapy were recommended by the providers appellant has seen over the years. There is no documentation provided by appellant to support that those other forms of therapy have been tried and have failed or that these therapies are more costly than the additional dog training services requested. In other words, the cost of additional dog training beyond what was already paid for by Mass Rehab Commission, which is thousands of dollars, is not modest or moderate and it is unclear whether it would be cheaper and more beneficial than the alternative therapies suggested by appellant’s provider. In addition, appellant has not met the reasonableness requirement as Mass Rehab Commission has been a source of funding in the past and there is no evidence to show that appellant has fully pursued this request with them.

It should be noted that under MassHealth regulations at 130 CMR 450.204

- (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

³ *Id.*

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

(Emphasis added). Appellant has failed to disprove that there is no other medical service comparable in effect, available, and suitable that is more conservative or less costly. For the reasons set forth above this appeal is DENIED.

Order for CCA

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: Commonwealth Care Alliance SCO, Attn: Cassandra Horne, 30 Winter Street, Boston, MA 02108