

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2401586
Decision Date:	3/25/2024	Hearing Date:	03/05/2024
Hearing Officer:	Mariah Burns		

Appearance for Appellant:



Appearance for MassHealth:

Katina Dean, Transportation Unit

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

Appeal Decision:	Denied	Issue:	Transportation Services
Decision Date:	3/25/2024	Hearing Date:	03/05/2024
MassHealth's Rep.:	Katina Dean	Appellant's Rep.:	[REDACTED]
Hearing Location:	Remote	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 January 12, 2024, MassHealth denied the appellant's prior authorization request for coverage of transportation services. *See* 130 CMR 407.411(B)(2) and Exhibit 1. The appellant filed this appeal in a timely manner on January 31, 2024. *See* 130 CMR 610.015(B) and Exhibit 2. Denial of assistance is valid grounds for appeal. *See* 130 CMR 610.032.

Action Taken by MassHealth

MassHealth denied the appellant's prior authorization request for coverage of transportation services to her adult day health center.

Issue

The appeal issue is whether MassHealth correctly determined that transportation to an adult day health center is not a covered service.

Summary of Evidence

The appellant is an adult MassHealth member over the age of 65. She was represented at hearing

by her daughter and authorized representative. MassHealth was represented by a worker from the MassHealth Transportation Unit. All parties appeared by telephone. The following is a summary of the testimony and evidence presented at hearing:

On January 10, 2024, the appellant submitted a prior authorization request for coverage of transportation services to her two adult day health centers. On January 12, 2024, MassHealth denied that request because transportation to adult day health is not a covered service, and the appellant's adult day health center has not arranged a special contract with MassHealth as required by the regulations. In fact, the MassHealth representative reported that there are no known adult day health centers who have special contracts with MassHealth for coverage of transportation services.

The appellant's representative provided written and verbal testimony explaining that she believes that the adult day health center should be covering the cost of the appellant's transportation to and from the program. She provided copies of her prior authorization request approving coverage of adult day health services, which she asserts states that transportation is covered. She further reported that it is her belief that other individuals who attend the center are having their transportation paid for by the center. She asked that she be reimbursed for her out-of-pocket costs in paying for the appellant to be transported to her program.

Findings of Fact

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

1. The appellant is an adult MassHealth Standard member over the age of 65 who currently receives adult day health benefits through MassHealth. Testimony, Exhibit 4, Exhibit 5 at 4-6.
2. On January 10, 2024, MassHealth received a prior authorization request submitted on the appellant's behalf requesting coverage of transportation services to and from her adult day health center. Testimony, Exhibit 5 at 1.
3. On January 12, 2024, MassHealth denied the request on the grounds that it is for a noncovered service. Testimony, Exhibit 1.
4. The appellant filed a timely notice of appeal on January 31, 2024. Exhibit 2.
5. There are no adult day health centers in the Commonwealth that currently have special contracts with MassHealth arranging for coverage of transportation services.

Analysis and Conclusions of Law

MassHealth covers the cost of transportation services for eligible MassHealth members, subject to certain restrictions. 130 CMR 407.403(A)(1). A member's coverage type dictates whether they are eligible to receive assistance with transportation services. *See generally* 130 CMR 450.105. Such services are covered for MassHealth Standard members, subject to the restrictions set forth in 130 CMR 407.000. *Id.* at 450.105(A)(1)(pp).

The MassHealth regulations specify which types of transportation services are and are not covered by MassHealth, regardless of the member's coverage type. *See* 130 CMR 407.411. At this time, "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," is considered a noncovered service. *Id.* at 407.411(B)(2).

As a MassHealth Standard member, the appellant is eligible for coverage of transportation services as allowed by the MassHealth regulations. However, in this case, her prior authorization request was for transportation services to her adult day health center, which is clearly a noncovered service. Further, there is no evidence in the record of the existence of a special contract with the appellant's adult day health center; in fact, MassHealth has no such contracts exist at this time. For those reasons, I find no error with MassHealth issuing the January 12, 2024, notice denying that request.

The appellant asserts that the adult day health center should be covering the cost of transportation services and that her prior authorization request approving coverage of adult day health services include the cost of transportation. *See* Exhibit 5 at 4-6. However, not only is that approval not at issue for this appeal, but with this argument, the appellant attempts to challenge an action by the adult day health center, not MassHealth. This appeal offers no recourse for adverse action taken by an entity other than MassHealth. *See generally*, 130 CMR 610.032(A)(3) and (5) (Bases for fair hearing included *MassHealth agency* action to restrict a member's assistance and *MassHealth agency* determinations regarding scope and amount of assistance). In short, this hearing officer has no authority to determine the validity of an action from an entity that is not MassHealth. *Id.*

To the extent that the appellant believes that the regulations are unfair, she should seek relief in the courts. *See* 130 CMR 610.082(C) ("If the legality of such law or regulations is raised by the appellant, the hearing officer must render a decision based on the applicable law or regulation as interpreted by the MassHealth agency...[and] cannot rule on the legality of such law or regulation and [such a challenge] must be subject to judicial review in accordance with 130 CMR 610.092").

For the foregoing 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.

Mariah Burns
Hearing Officer
Board of Hearings

cc:

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