

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Dismissed in part; Denied in part	Appeal Number:	2403480
Decision Date:	8/8/2024	Hearing Date:	04/04/2024
Hearing Officer:	Kimberly Scanlon	Record Open to:	05/24/2024

Appearance for Appellant:

Via telephone

Pro se

Appearance for MassHealth:

Via telephone

Sara Pedone, P.T. Optum



*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:	Dismissed in part; Denied in part	Issue:	Prior Authorization - DME
Decision Date:	8/8/2024	Hearing Date:	04/04/2024
MassHealth's Rep.:	Sara Pedone, P.T.	Appellant's Rep.:	Pro se
Hearing Location:	Quincy Harbor South 3 (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 18, 2024, MassHealth denied the appellant's prior authorization request for durable medical equipment, codes: E2300 (power wheelchair accessory, power seat elevator, K0108 (other accessories-LED light kit, et. al.), and E2609 (custom fabricated wheelchair seat cushion) (Exhibit 1). The appellant filed this appeal in a timely manner on or about March 7, 2024 (130 CMR 610.015(B); Exhibit 2). Denial of a request for prior authorization is valid grounds for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied the appellant's prior authorization request for wheelchair accessories including a power seat elevator, LED light kit and other accessories, and a custom fabricated wheelchair seat cushion.

Issue

The appeal issue is whether MassHealth was correct in denying the appellant's prior authorization request for wheelchair accessories including a power seat elevator, LED light kit and other accessories, and a custom fabricated wheelchair seat cushion.

Summary of Evidence

The appellant appeared at the hearing telephonically. MassHealth was represented telephonically by a physical therapist consultant from Optum, the agent of MassHealth that makes the prior authorization determinations for durable medical equipment (DME), who testified as follows: The appellant is an adult female. Her medical diagnoses include the following: congenital achondroplasia (a genetic condition that affects bone growth), uncontrolled blood pressure, hyperglycemia, history of strokes, cellulitis, and sleep apnea (Exhibit 6, p. 26). The appellant is wheelchair bound; her current wheelchair is in poor condition and ill-fitting. *Id.* The appellant's current equipment includes: a power wheelchair with tilt and recline, and a back-up manual wheelchair that MassHealth approved (Exhibit 1, p. 2). Additionally, the appellant was approved for personal care attendant (PCA) services in the amount of 104.45 hours per week. On January 4, 2024, the appellant's provider, [REDACTED] submitted a prior authorization request for a Permobil F3 power wheelchair with the options of tilt and recline, seat elevation, a custom seat cushion and multiple K0108 accessories. On January 5, 2024, this request was deferred by the Optum reviewer, requesting additional clinical documentation. On January 17, 2024, Optum received documentation from the appellant's physical therapist (Exhibit 6, p. 8). The MassHealth representative stated that the appellant's request for the power wheelchair was approved but certain wheelchair accessories were denied (See, Exhibit 1, pp. 2-4).

Specifically, on January 18, 2024, MassHealth approved the following requests as medically necessary for the appellant: a Permobil F3 power wheelchair with tilt and recline, associated electronics, and RE labor units (Codes K0861, E1007, E2311, and K0739) (See, Exhibit 6, p. 2). However, MassHealth denied the request for the power seat elevator option and custom cushion seat because the documentation submitted does not establish medical necessity. *Id.* Less costly cushion options are available to meeting the medical needs of the member. *Id.* The K0108 line items, except for the LED light kit, were denied as the submitted documentation does not provide specific medical justification for each item, which are associated with the custom seat cushion request (D2609). The LED light kit was denied is considered a non-DME item for which MassHealth does not provide coverage. This detail was requested under deferral and MassHealth did not receive additional documentation. *Id.*

With respect to the requested power seat elevator (Code E2300), the clinical documentation did not support the justification of medical necessity. Rather, the documentation submitted indicates that the appellant is independent with the following Mobility-Related Activities of Daily Living

(MRADLs) with her current mobility device (wheelchair): moving room to room in the home, meal preparation, feeding, and toileting (Testimony; Exhibit 6, p. 13). She requires minimal assistance with bathing, grooming, and dressing. *Id.* Additionally, the evaluation submitted that pertains to the assessment for all power wheelchair components does not state a reason to justify the request of the seat elevator option (E2609). The MassHealth representative testified that the documentation submitted by the appellant's therapist states that the appellant can transfer in and out of her wheelchair and enter/exit home via a ramp (Exhibit 6, p. 26). Thus, MassHealth did not receive any documentation to support the appellant's request of the power seat elevator option as medically necessary (See, 130 CMR 450.204).

With respect to MassHealth's denial for the appellant's request of a wheelchair seat cushion (Code E2609), the MassHealth representative testified that the documentation submitted does not establish that it is medically necessary and there are less costly options available. *Id.* The MassHealth representative stated that less costly options include other cushions that provide pressure relief which are found under a different coding. Moreover, the documentation submitted by the appellant's physical therapist indicates that the appellant does not have current skin issues intact, she does not have a history of skin issues, nor does she have a history of skin flap surgeries, and she does not have pain, sensory issues or incontinence (Exhibit 6, p. 14). Conversely, the letter that MassHealth received from the appellant's physical therapist on deferral states that the appellant does have a history of skin issues (Exhibit 6, p. 8). Thus, MassHealth would need definitive clarification regarding whether the appellant does in fact have current skin issues because the documentation received on her behalf is contradictory.

The appellant also requested a LED light kit and other accessories that would be needed for the wheelchair seat cushion (Code K0108). The MassHealth representative testified that Code K0108 is a miscellaneous code that is used for wheelchair accessories that do not have a specific code of their own. There are a few different line items listed under K0108. The appellant requested the following items using Code K0108: LED Light kit, Extra 4" Link; Unitrack adjustment link, custom option replace 2", custom bracket to mount; Seat foam Level 1, and Seat foam Level 2 (Exhibit 6, p. 29). The MassHealth representative stated that none of the items that the appellant requested under Code K0108 were mentioned in her submission or in deferral. Except for the LED light kit, the requested items listed above were denied because there was no documentation included in the prior authorization request establishing medical necessity for said items (See, 130 CMR 450.204). The requested LED light kit was denied because an LED light kit is not considered to be a durable medical item and therefore is not a covered item (Exhibit 6, p. 42; 130 CMR 409.414(L)).

The appellant testified as follows: Her disability is called mobile skeletal genital anomaly, which effects all four of her extremities. Specifically, the appellant has shortness of bones, fused bones and missing bones. As to her upper extremities, the appellant explained that she has a very short left arm, no hand and one finger. Her right arm is a stump as it is a few inches long and does not include a hand or fingers. With respect to her lower extremities, the appellant stated that she does not have hip sockets so the muscles surrounding her hips are the only things holding her legs in

place. Additionally, the appellant was not born with bones in the top part of her legs. Her left foot has only three toes and her right foot has only four toes. The appellant is [REDACTED] in height and was born this way. With respect to her request of the elevator lift, the appellant stated that the wheelchair previously given to her did not work properly. She contacted numerous places to have her wheelchair fixed, to no avail. While she uses the Permobil power wheelchair, it is currently in poor condition. She is missing her front wheels, and her joystick barely works properly. The appellant stated her health has slightly declined but she fights for her independence. However, without the seat elevator lift, the appellant cannot perform her chores. Presently, she cannot reach the sink nor kitchen counters in her house. The appellant can only reach the kitchen table from her wheelchair. She stated that she is unable to wash dishes without the ability to reach the kitchen sink. Moreover, the appellant is not fully independent in transfers, she requires a 1-person assist because she does not have the ability to hold onto anything. Further, when she is grocery shopping, the appellant cannot reach any of the shelves, nor can she reach any of the shelves in her house. The appellant testified that a seat elevator lift would assist her ability to perform these functions, as well as going to the bathroom and lifting the toilet seat, showering, transferring into and out of bed without requiring the use of a Hoyer lift, and assist with relieving pressure to prevent pressure wounds from forming in her legs and back area. She explained that she only has one finger and irregular arm lengths, so she does not have the ability to reach something higher. She also clarified that on occasion, she is incontinent.

As to her request for a custom seat cushion, the appellant explained that she presently has fluid buildup in her legs, which may require surgery. She stated that when she is seated in her wheelchair, her present cushion is too soft and she cannot move her legs, which extend straight out. The appellant requires a firm cushion to help her move around while sitting in her wheelchair, so she is not stuck in one position. Additionally, the fabric used on a custom seat cushion allows the appellant to move around more independently while sitting in her wheelchair. The appellant stated that a custom seat cushion would also assist in keeping the appellant sitting up straight and keep her back straight. The appellant explained that her present seat cushion absorbs her sweat and bodily fluids that subsequently results in skin breakouts. For these reasons, a custom seat cushion would help the appellant immensely. The appellant stated that she is determined to maintain her independence.

The MassHealth representative testified that the appellant stated her reasoning beautifully. The issue is that none of this information was included in the prior authorization request submitted on her behalf. She explained that this is information that would have been extremely helpful, if it was received in the appellant's prior authorization request. The MassHealth representative explained that if she were to receive documentation from the appellant's physical therapist stating what the appellant succinctly testified to, it would be helpful in making a definitive, medically necessary, decision. She suggested that the appellant have her physician or physical therapist document what the appellant stated as reasons to support her DME requests and submit it to MassHealth. The MassHealth representative explained that once on file, MassHealth can defer to it when the appellant requests a new wheelchair or other DME items in the future. The appellant agreed to do

so and inquired about her LED light kit request. She explained that while she understands the reason for denial, the appellant goes out at night, whether it be to go to the store, or for a medical appointment. The appellant further explained that she lives on a busy street and cannot rely on requested transportation methods because they can run late or come too early. As a result, the appellant uses her wheelchair as her means of transportation. However, she must use the street itself because the sidewalks in her surrounding area are either in poor condition, under construction, or not shoveled properly during the winter season. The appellant testified that wheeling in the street during nighttime hours can be scary and dangerous at times. She attempted to use flashlights, which is challenging to hold onto with one finger nor can she balance a flashlight in-between her knees. As a result, the appellant lost multiple flashlights because when she drops them, she is unable to retrieve them from the street. The appellant explained that she has requested an LED light kit for years and her requests have always been denied. She stated that she is not looking for anything fancy, she simply requests a light she can use at night to assist her for safety purposes.

In response, the MassHealth representative explained that while she understands the functionality of the request for an LED light kit, the regulations that she must adhere to do not provide coverage this item, unfortunately. The MassHealth representative pointed out that the other items that the appellant requested under Code K0108 are directly related to the custom seat cushion. Thus, if the appellant's request for a custom seat cushion is approved, the remaining items requested under Code K0108 – except for the LED light kit, would be approved as well.

Following the hearing, the record was left open to allow the appellant to submit additional documentation (Exhibit 7). The MassHealth representative subsequently reported that upon receiving additional documentation, MassHealth approved the appellant's request for the following items: seat elevator (E2300), custom seat cushion (E2609) and the items listed under Code K0108, except for the LED light kit (Exhibit 8, p. 1). The LED light kit remains denied because it is not considered to be DME, in accordance with the pertinent regulation.

Findings of Fact

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

1. On or about January 4, 2024, the appellant's provider submitted a prior authorization request for DME, under the following codes: K0861, E1007, E2311, K0739, E2300, K0108, and E2609.
2. By notice dated January 18, 2024, MassHealth informed the appellant that her requests for DME under the following codes: K0861, E1007, E2311, and K0739 were approved. MassHealth denied the appellant's request for DME items under codes E2300, K0108, and E2609.

3. MassHealth denied the appellant's request for DME items under codes E2300, E2609, and K0108 (except for the LED light kit) because the documentation submitted on her behalf does not support the justification for medical necessity and contradicts a letter received from the appellant's physical therapist on January 17, 2024. MassHealth denied the requested LED light kit because it is considered as a non-DME item which is not a covered service.
4. The appellant timely appealed this MassHealth action.
5. The appellant is an adult female and has diagnoses include congenital achondroplasia, a genetic condition that affects bone growth, uncontrolled blood pressure, hyperglycemia, history of strokes, cellulitis and sleep apnea. She was born with shortness of bones, fused bones and missing bones.
6. The requested DME items, if approved, would assist the appellant in her MRADL's that she is currently unable to perform independently, resolve her skin issues, and prevent pressure wounds.
7. The record was left open for the appellant to submit additional documentation clarifying the reasons for her DME requests.
8. MassHealth received the pertinent documentation and approved her requests for the following DME items: power seat elevator (E2300), custom fabricated wheelchair seat cushion (E2609) and all items listed under K0108 associated with the custom seat cushion.
9. The appellant's request for a LED light kit remained denied.
9. A LED light kit is considered a non-DME item and is therefore a non-covered service.

Analysis and Conclusions of Law

Pursuant to 130 CMR 450.204, the MassHealth agency does not pay for services that are not medically necessary and may impose sanctions on a provider for providing or prescribing a service for admitting a member to an inpatient facility where such service or admission is not medically necessary.

(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: Potential Sources of Health Care, or 517.007: Utilization of Potential Benefits.

(B) Medically necessary services must be of a quality that meets professionally recognized standards of health care, and must be substantiated by records including evidence of such medical necessity and quality. A provider must make those records, including medical records, available to the MassHealth agency upon request. (See 42 U.S.C. 1396a(a)(30) and 42 CFR 440.230 and 440.260.)

(C) A provider's opinion or clinical determination that a service is not medically necessary does not constitute an action by the MassHealth agency.

(D) Additional requirements about the medical necessity of MassHealth services are contained in other MassHealth regulations and medical necessity and coverage guidelines.

(E) Any regulatory or contractual exclusion from payment of experimental or unproven services refers to any service for which there is insufficient authoritative evidence that such service is reasonably calculated to have the effect described in 130 CMR 450.204(A)(1).

(130 CMR 450.204).

In the present case, the appellant testified credibly and submitted additional, supporting evidence during the record open period to justify her requests for the seat elevator (E2300), custom seat cushion (E2609) and the items listed under Code K0108, as medically necessary. This resulted in MassHealth approving said DME items. As a result, these portions of this appeal are dismissed.

With respect to the denial of the appellant's request of an LED light kit, 130 CMR 409.414 discusses non-covered DME services, in part as follows:

The MassHealth agency does not pay for the following:

(L) products that are not DME (except for augmentative and alternative communication devices covered pursuant to M.G.L. c. 118E § 10H under 130 CMR 409.428).

(130 CMR 409.414(L)).

MassHealth's determination relative to the LED light package is supported by the regulations. The request was denied on the basis that the accessory is not considered durable medical equipment because it does not meet a medical need. The appellant testified that she needs lighting on her wheelchair for safety reasons. The light package provides a convenience and safety feature that is

related to the appellant's nighttime activities. It is not associated with a medically necessary purpose.¹ Accordingly, MassHealth's denial of this request is supported.

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.

Kimberly Scanlon
Hearing Officer
Board of Hearings

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

¹ Under 130 CMR 409.402, Durable Medical Equipment is defined as equipment that (1) is used primarily and customarily to serve a medical purpose; (2) is generally not useful in the absence of disability, illness or injury; (3) can withstand repeated use over an extended period; and (4) is appropriate for use in any setting in which normal life activities take place, other than a hospital, nursing facility, ICF/IID, or any setting in which payment is or could be made under Medicaid inpatient services that includes room and board, except as allowed pursuant to 130 CMR 409.415 and 130 CMR 409.419(C).