

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



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| Appeal Decision: | Denied | Appeal Number: | 2413083 |
| Decision Date: | 11/19/2024 | Hearing Date: | 10/01/2024 |
| Hearing Officer: | Casey Groff | | |

Appearance for Appellant:



Appearance for MassHealth:

Sara Pedone, PT, Clinical Reviewer, 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

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|---------------------------|----------------------------|--------------------------|---------------------------|
| Appeal Decision: | Denied | Issue: | Durable Medical Equipment |
| Decision Date: | 11/19/2024 | Hearing Date: | 10/01/2024 |
| MassHealth's Rep.: | Sara Pedone, PT | Appellant's Rep.: | ██████ |
| Hearing Location: | Board of Hearings (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 08/07/2024 MassHealth denied Appellant's prior authorization request for durable medical equipment (DME), i.e., a light accessory for his mobile wheelchair. See Exhibit 1. The appellant filed this appeal in a timely manner on 08/23/2024. See Exhibit 2. Denial of a prior authorization request is valid grounds for appeal. See 130 CMR 610.032.

Action Taken by MassHealth

MassHealth denied Appellant's prior authorization request for DME because it determined that the item requested was not medically necessary and was outside the scope of covered DME services.

Issue

The appeal issue is whether MassHealth was correct, in denying Appellant's request for DME because the requested product was not medically necessary and was outside the scope of covered DME services.

Summary of Evidence

At the hearing, MassHealth was represented by a licensed physical therapist and clinical appeals reviewer. Through testimony and documentary submissions, the MassHealth representative presented the following evidence: Appellant is under the age of 65 with diagnoses including quadriplegia, a c5-c7 level spinal cord injury, and a right leg amputation.” See Exh. 5 at 2-9. In March of 2024, MassHealth approved Appellant for a new replacement “Power 3 Permobil Wheelchair.” On 8/6/24, MassHealth received another PA request from Appellant’s provider, seeking coverage for a “luggage carrier with LED lights” as an add-on accessory to his new wheelchair. Id. at 3-5. A copy of the work order, which was included in the PA request, shows that the cost of the wheelchair accessory was \$445.38, and would require an additional cost of \$350.00 for labor, for a total combined cost to MassHealth of \$795.28. Id. at 5; 10. On 8/7/24, MassHealth denied the PA request on the basis that it was not medically necessary, and it was considered a “non-covered DME service.” See Exh. 1. The MassHealth representative testified that covered DME is, by definition, equipment that is primarily used to serve a medical purpose and that is generally not useful in the absence of injury, disability, or illness. Here, lights and a luggage carrier do not fall within the definition of DME, and under 130 CMR 409.414(L), is therefore a “non-covered” DME service.

Appellant appeared at the hearing *pro se* and testified that he disagreed with the MassHealth decision because his new wheelchair did not come with lights like his prior two, and this presents a safety concern. For background, Appellant explained that in March of 2024, he received his third wheelchair through MassHealth, which did not come with lights; however, his prior two wheelchairs both came affixed with lights. He is less concerned about the luggage carrier, as he primarily needs the lights, which also blink and act as a directional signal. Appellant testified that he rides his mobile wheelchair two miles down the side of the road to get to the store, which is often at night or when the weather is gloomy. He does his own shopping because his PCA’s do not have their own cars to run errands on his behalf. For example, he has to go to the pharmacy to get his medication. Because of the safety concern it presents when riding without lights, Appellant believed the DME request was medically necessary.¹

Findings of Fact

¹¹ In response, the MassHealth representative indicated that she was not aware that the lights came with the prior two wheelchairs as it is not a basic feature included with most wheelchairs. She also noted that there was not a specific request for lights on Appellant’s request for the replacement wheelchair from February 2024.

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

1. Appellant is under the age of 65 with diagnoses including quadriplegia, a c5-c7 level spinal cord injury, and a right leg amputation.
2. In March of 2024, MassHealth approved Appellant for a new replacement “Power 3 Permobil Wheelchair” which did not come with lights.
3. On 8/6/24, MassHealth received a PA request from Appellant’s provider, seeking coverage for a “luggage carrier with LED lights” as an add-on accessory to his new wheelchair, which would cost a total of \$795.28 with labor included.
4. On 8/7/24, MassHealth denied the PA request on the basis that the equipment requested was not medically necessary, and it was considered a “non-covered DME service.”
5. Appellant is seeking the requested wheelchair accessory to have greater visibility and safety when riding his wheelchair outside to run errands.

Analysis and Conclusions of Law

This appeal addresses whether MassHealth erred in denying Appellant’s request for a luggage carrier box with lights to be added to his new replacement mobile device. MassHealth covers the cost of medically necessary durable medical equipment (DME) for eligible members, subject to the restrictions and limitations described in 130 CMR 409.000 and 130 CMR 450.000. See 130 CMR 409.403; see also 130 CMR 409.413(A). MassHealth requires, as a precondition for coverage of any health care related expense, that the service be “medically necessary.” This is defined, 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.

.....

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

See 130 CMR 450.204.

MassHealth covers medically necessary DME that can be appropriately used in the member's home or setting in which normal life activities take place, and in certain circumstances described in 130 CMR 409.415 for use in facilities. See 130 CMR 409.413. Covered DME services include, but are not limited to, the following:

- (1) absorbent products;
- (2) ambulatory equipment, such as crutches and canes;
- (3) compression devices;
- (4) augmentative and alternative communication devices;
- (5) enteral and parenteral nutrition;
- (6) nutritional supplements;
- (7) home infusion equipment and supplies (pharmacy providers with DME specialty only);
- (8) glucose monitors and diabetic supplies;
- (9) mobility equipment and seating systems;
- (10) personal emergency response systems (PERS);
- (11) ostomy supplies;
- (12) support surfaces;
- (13) hospital beds and accessories;
- (14) patient lifts; and
- (15) bath and toilet equipment and supplies (including, but not limited to, commodes, grab bars, and tub benches).

130 CMR 409.413(B).

MassHealth will also cover necessary repairs of DME, including repairs to medically necessary back-up mobility systems, subject to the requirements of 130 CMR 409.420; and, in certain cases, will pay for the replacement of a member's primary mobility system once certain criteria outlined in 130 CMR 409.413(E) has been met. See 130 CMR 409.413(C)-(E).

Non-covered DME services, include, in relevant part, the following:

(B) DME that is determined by the MassHealth agency not to be medically necessary pursuant to 130 CMR 450.204. This includes, but is not limited to items 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);

...

(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.

In conjunction with subsection (L) above, MassHealth defines DME as follows:

Durable Medical Equipment (DME) - 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).

Here, MassHealth denied Appellant's PA request because it determined that a wheelchair luggage carrier with lights fell outside the scope of medically necessary covered DME services. Pointing to subsection (L) above, the MassHealth representative testified that the product requested, while useful, does not fall within the definition of DME and is therefore not covered by MassHealth. Appellant opposed this position, explaining that the lights, which also offer blinker and directional signal capabilities, add a safety component to his wheelchair, which he uses outside the home to run errands while conditions are dark and/or foggy. While the product is designed as a wheelchair accessory, its intended benefits – extra storage and added visibility – are features that are generally useful “in the absence of disability, illness or injury.” *Id.* Appellant did not demonstrate that the accessory is used “primarily and customarily to serve a medical purpose.” *Id.* Therefore, MassHealth did not err in denying his PA request on the basis that the requested accessory fell outside the scope of covered DME services.

Based on the foregoing, 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.

Casey Groff
Hearing Officer
Board of Hearings

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