

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2417193
Decision Date:	1/29/2025	Hearing Date:	01/07/2025
Hearing Officer:	Amy B. Kullar, Esq.		

Appearance for Appellant:



Appearance for MassHealth:

Monique Racine, licensed respiratory therapist
and 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

Appeal Decision:	Denied	Issue:	Durable Medical Equipment - Duplication of Item
Decision Date:	1/29/2025	Hearing Date:	01/07/2025
MassHealth's Rep.:	Monique Racine	Appellant's Rep.:	Mother
Hearing Location:	Quincy Harbor South 7 (Telephone)	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

On October 31, 2024, MassHealth denied the appellant's prior authorization request for durable medical equipment (DME), i.e., for coverage of a new continuous positive airway pressure (CPAP) device and attendant heated humidifier. *See* 130 CMR 427.407(D)(3); 450.303 and Exhibit 1. The appellant filed this appeal in a timely manner on November 8, 2024. *See* 130 CMR 610.015 and Exhibit 2. The denial of a prior authorization request is valid grounds for appeal. *See* 130 CMR 610.032.

Action Taken by MassHealth

MassHealth denied the appellant's prior authorization request for DME because it determined that the items requested were not medically necessary because the requested items are a duplication of DME already owned by the appellant.

Issue

The appeal issue is whether MassHealth was correct, in determining the appellant's request for DME is not medically necessary because the requested items are a duplication of DME already owned by the appellant.

Summary of Evidence

At the hearing, MassHealth was represented by a licensed respiratory therapist and clinical appeals reviewer. Through testimony and documentary submissions, the MassHealth representative presented the following evidence:

Appellant is under the age of [REDACTED] with diagnoses including obstructive sleep apnea, for which she is prescribed a CPAP machine with a heated humidifier. She received a CPAP machine with heated humidifier in August 2021, which was covered by MassHealth. This device is still functioning. Exhibit 5 at 17 and testimony. On October 30, 2024, MassHealth received a PA request from appellant's provider, seeking coverage for a new CPAP machine and attendant heated humidifier. *Id.* at 2; 7. On October 31, 2024, MassHealth denied the PA request on the basis that the requested items are a duplication of DME already owned by the appellant. "Documentation submitted indicates that member has a current device that is being used nightly and meeting member needs." Exhibit 1. The MassHealth representative testified that MassHealth reviews prior authorization requests for medical necessity, but that typically CPAP machines are replaced by MassHealth every five years due to medical necessity. She stated that, "MassHealth does not automatically upgrade equipment for age" and that because the appellant has a working CPAP machine that she is using nightly, "the requested equipment is a duplication." Thus, the prior authorization request was denied pursuant to 130 CMR 427.407(D)(3) and 130 CMR 450.303. Testimony.

The appellant was represented by her mother who appeared telephonically and verified the appellant's identity. The appellant's mother disagreed with the MassHealth decision because of concerns that she has about the machine's safety. She stated that "[the appellant's] doctor does not trust the machine."¹ She testified that "all the other patients are transferring over to the [REDACTED] can't sell CPAP machines in the [REDACTED] anymore. I don't trust the company." Testimony. The appellant's mother stated that the appellant's physician did not understand why MassHealth was giving her such a hard time in replacing the machine. The MassHealth representative stated in response that MassHealth never automatically replaces the [REDACTED] machines or any other brand of machines. Replacement occurs only when a machine is no longer functioning, which is normally documented by an inspection report that shows the machine

¹ The appellant's prescribing physician did not submit a narrative of medical necessity in support of the prior authorization request.

is no longer working and cannot be repaired. The MassHealth representative testified that the appellant last received a CPAP machine paid for by MassHealth in 2021, and at the time of the current prior authorization request, the machine was only three years old.

The appellant's mother acknowledged that the appellant uses her current CPAP machine every night, but that she has stress about the appellant's usage of the machine because she believes that the current CPAP machine is of poor quality. The appellant's mother stated that she does not feel comfortable having the appellant use her current machine. Testimony. When questioned, the appellant's mother stated that the appellant has not had any issues using the machine, but that she is aware of others having issues with their CPAP machines overheating and causing fires. Having this knowledge of other people's CPAP machines causing fires causes nightly stress to the appellant's mother, especially where she and the appellant live in the same home. Testimony. When questioned by the hearing officer, the MassHealth representative stated that the appellant's CPAP machine has not been recalled.

Findings of Fact

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

1. The appellant is prescribed a continuous positive airway pressure (CPAP) machine with a heated humidifier for her diagnosis of obstructive sleep apnea. (Exhibit 5, pp. 7-20.)
2. On October 30, 2024, MassHealth received a PA request from the appellant's provider seeking coverage for a new CPAP device and attendant heated humidifier.
3. On October 31, 2024, MassHealth denied Appellant's prior authorization request for DME because it determined that the items requested were not medically necessary because the requested items are a duplication of DME already owned by the appellant.
4. At the time of this decision, the appellant's current CPAP machine was about three and a half years old. It continues to function, and the appellant uses it nightly. (Exhibit 5, pp. 11-12; testimony by MassHealth's representative and the appellant's representative.)
5. MassHealth does not automatically upgrade equipment for age and MassHealth does not provide duplications of working DME. (Testimony by MassHealth's representative.)
6. MassHealth only pays for replacement CPAP machines when there is a reason why the existing machine can no longer be used. (Testimony by MassHealth's representative.)

Analysis and Conclusions of Law

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 will also cover necessary repairs of DME, including repairs to medically necessary CPAP systems, subject to the requirements of 130 CMR 409.420. MassHealth will cover the cost of replacement equipment “only when the existing device or system no longer effectively addresses the member's medical needs, or if the cumulative cost of the repair exceeds the cost to replace the equipment.” *See* 130 CMR 409.420(F).

MassHealth will not pay for equipment or services that serve essentially the same purpose as equipment already available to the recipient. *See* 130 CMR 427.407(D)(3). 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);

130 CMR 409.414 (Emphasis added)

MassHealth's position is that MassHealth will not pay for equipment or services that serve essentially the same purpose as equipment already available to the appellant, and that the requested DME will serve essentially the same purpose as DME already in use by the appellant. Here, there was no evidence submitted in the record or at hearing that documented that the appellant's current CPAP machine is not in good working order; rather, the appellant's representative testified that the appellant uses the CPAP machine every night, and her medical record shows that the appellant is benefiting from using the CPAP machine. The appellant has identified no reason why a new CPAP machine would not "serve the same purpose as DME already in use" pursuant to 130 CMR 409.414(B)(3) or how a new CPAP machine is "medically necessary" under 130 CMR 450.204. The appellant did not show that her existing CPAP machine is no longer effectively addressing her medical needs or how a new CPAP machine would not serve essentially the same purpose as equipment already available to the appellant. MassHealth did not err when it denied the appellant's prior authorization request for a new continuous positive airway pressure device and attendant heated humidifier.

This 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.

Amy B. Kullar, Esq.
Hearing Officer
Board of Hearings

cc:

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