

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision: Approved in part;
Denied in part

Appeal Number: 2177992

Decision Date: 2/17/2022

Hearing Date: 11/23/2021

Hearing Officer: Samantha Kurkijy

Appellant Representative:

Pro se

MassHealth Representative:

Dr. Cheryl Ellis, Med. Dir., UnitedHealthcare,
SCO



*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:	Approved in part; Denied in part	Issue:	SCO
Decision Date:	2/17/2022	Hearing Date:	11/23/2021
MassHealth Rep.:	Dr. Cheryl Ellis	Appellant Rep.:	Pro se
Hearing Location:	Remot	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 September 20, 2021, UnitedHealthcare (“United”), the appellant’s Senior Care Options (“SCO”) program, notified the appellant that her request for 40 day/evening hours and 14 nighttime hours per week of personal care attendant (“PCA”) services was modified to 22 day/evening hours and 14 nighttime hours as of August 28, 2021. (Exhibit 1.) The appellant filed this appeal in a timely manner on October 4, 2021. (130 CMR 610.015(B); Exhibit 2.) Denial of assistance is a valid basis for appeal. (130 CMR 610.032.) The hearing officer was on periods of medical leave due to a serious illness, which extends the deadline for rendering a hearing decision pursuant to 130 CMR 610.015(D)(4)(b).

Action Taken by the SCO

United notified the appellant that her request for 40 day/evening hours and 14 nighttime hours per week of PCA services was modified to 22 day/evening hours as of August 28, 2021.

Issue

Whether the SCO was correct in modifying the appellant’s request for PCA services.

Summary of Evidence

The appellant, who is over 65-years-old, is enrolled in United as her SCO. An SCO is a plan for individuals who have dual eligibility for Medicare and Medicaid. On August 3, 2021, the appellant had a functional assessment in her home. A nurse observed her activities of daily living (“ADLs”) and determined that she needs 22 day/evening PCA hours and 14 nighttime hours per week. On August 9, 2021, United reviewed the medical necessity of the appellant’s request. On September 20, 2021, United informed the appellant that her PCA hours of 40 day/evening hours and 14 nighttime hours per week, which the United representative testified the appellant had been receiving for some time, would be modified to 22 day/evening hours and 14 nighttime hours per week as of August 28, 2021. The appellant submitted an appeal on October 4, 2021.

The United representative testified that the appellant has a primary diagnosis of cancer in the lungs and brain. She also has a history of hypertension and multiple sclerosis. The United representative explained that “limited assist” means the appellant performs 50% of the task and the PCA performs 50%, and “extensive assist” means the appellant performs 25% of the task and the PCA performs 75%. The United representative testified that United made 13 modifications to the appellant’s request for PCA services. The parties’ testimony is as follows:

1. Transfers—moderate to extensive assist. The appellant was assessed at 105 minutes per week/15 minutes per day. The appellant previously was assessed to be a severe assist at 140 minutes per week/20 minutes per day. The United representative testified that the nurse observed the appellant using her walker.

The appellant testified that she fell 5-6 times inside and outside over the last two months. She has an appointment for an MRI to get her spine checked. She testified that she cannot transfer by herself and her right side is weaker than her left side. She testified that the nurse did not evaluate her in person on August 3, but had her perform tasks on November 18 when she came to the appellant’s house. The appellant testified her symptoms have worsened since August and she holds on to a walker or cane with the PCA there. She leans on the PCA because she does not know when her legs are going to give out.

2. Walking/ambulation—moderate to limited assist. The appellant was assessed at 30 minutes per week/4 minutes per day. She previously was assessed to be a severe assist at 210 minutes per week/30 minutes per day.

The appellant testified that she has her commode, walker, and cane near her. When she was assessed, she needed to hold on to her PCA to walk. She testified she can ambulate 10-15 minutes on a walk and then she has to turn around and go home. She testified that if she uses the cane, the PCA has constant contact with her. If she uses the walker, the PCA walks in front of her or to her side, putting her hand around the appellant’s waist. The appellant testified that her ability to walk has worsened. She testified her doctors notice her difficulty walking and question why she leans to the right side when she walks.

3. Dressing—moderate to extensive assist. The appellant was assessed at 100 minutes per week/14 minutes per day. She previously was assessed to be a severe assist at 210 minutes per week/30 minutes per day. The United representative testified that the appellant has chronic pain and limited range of motion, which makes reaching her shoulders difficult. She testified that the appellant needs the PCA to lift her arms and put on her bra. The appellant cannot bend at the waist.

The appellant testified she can pull up her underwear with one hand, but that she cannot button, zip, tie her shoes, or button her coat. She testified that she tries to wear pants that are not difficult to put on. She testified that she sits on her bed while the PCA kneels and puts her legs into her pant holes. Then the appellant stands and the PCA buttons and zips her pants. The appellant testified that she has hand braces now and her fingers freeze without warning.

4. Eating—independent. The appellant previously was assessed to have 70 minutes per week, but the United representative testified that was for meal preparation. She testified that the appellant can feed herself and denies difficulty swallowing or chewing.

The appellant testified that the nurse never observed her eating or drinking. She testified that she drinks from a sippy cup with a handle but it hurts her hand sometimes. She testified that the PCA cuts up her meals for her. The appellant testified she can use a spoon but has difficulty using a fork. She testified that if her hand shakes, the PCA will take her wrist and guide the spoon to her mouth.

5. Toileting—moderate to extensive assist. The appellant was assessed at 115 minutes per week/16 minutes per day. She previously was assessed to be a severe assist at 280 minutes per week/40 minutes per day. The United representative testified that the appellant has chronic pain and limited range of motion. She testified the appellant needs someone to lift and hold her under her arms and has limited hand dexterity. She testified that the appellant is incontinent of urine and uses pull-ups, and she needs someone to lift her legs and remove her Depends.

The appellant testified that she leans on the counter and sits down with the assistance of the PCA. She testified she requires help both getting on to and off of the toilet. She testified that if she soils herself, the PCA washes her. She testified that while she can wipe herself sometimes, she needs assistance from the PCA if she has a bowel movement.

6. Personal hygiene and grooming—moderate to extensive assist. The appellant was assessed at 98 minutes per week/14 minutes per day. She previously was assessed to be a severe assist at 210 minutes per week/30 minutes per day. The United representative testified that the appellant requires assistance to braid, comb, and wash her hair. She testified the PCA lifts and holds the appellant's arm while the PCA shaves the appellant's armpits. She testified that the PCA brushes the appellant's dentures but that the appellant is able to wash her hands and face.

The appellant testified that she is able to wash her hands and face if someone brings her to the sink. She testified that the PCA gives her a cloth to dry herself with and that she cannot get the cloth out herself. She testified that the PCA helps her with hair on her chin and shaves under her arms approximately twice per week. She testified the PCA puts on deodorant for her. The appellant

testified that the PCA puts lotion on her legs, feet, and the rest of her body 4-5 times per week.

7. Bathing—moderate to extensive assist. The appellant was assessed at 224 minutes per week/32 minutes per day. She previously was assessed to be a severe assist at 245 minutes per week/35 minutes per day. The United representative testified that the appellant showers daily and the PCA lifts and holds the appellant under her arms while she steps into her shower chair.

The appellant testified that she has a basin in the shower which the PCA fills with water so that she can soak her feet. She testified she can wash her face, ears, and the front of her neck but cannot wash the back of her neck. She noted that if she is incontinent, she showers more often during the week. The appellant estimated she showers 10-12 times per week.

8. Meal prep—great difficulty. The appellant was assessed at 245 minutes per week/35 minutes per day, which is the maximum time provided by United. The appellant previously was assessed at 420 minutes per week/60 minutes per day. The United representative testified the PCA receives little or no help from the appellant when preparing snacks, cold meals, and full meals. The appellant experiences extreme weakness and previously fell when trying to help. She is on a diabetic diet but has no special preparation needs, such as puree.

The appellant testified that she can turn on the burner and get seasoning, but she is unable to boil water. She testified she has cuts and burns on her hands and cannot use a knife because her hand shakes. For breakfast, she eats a bagel, eggs, toast, tea, or juice. For lunch, she eats a salad, sandwich, or macaroni and cheese. For dinner, she eats tuna with salad, steak, chicken, ribs, or potato salad. Her snacks consist of peanut butter crackers and pre-cut celery and carrot sticks. The appellant testified that she has two snacks per day.

9. Housework—great difficulty. The appellant was assessed at 90 minutes per week. She previously was assessed at 120 minutes per week. The United representative testified that the appellant cannot bend, lift, reach, pull, push, or carry.

The appellant testified that her PCA does her laundry, which is in her home, and puts it away. Her comforter must be taken to a laundry mat. The PCA also cleans the stove, washes the windows and slider, cleans the bathroom, waters the plants, cleans the floor, makes the bed, and defrosts the freezer. The appellant testified she can wipe a table with a rag. She testified she lives in a two-bedroom home but the PCA does not clean one of the bedrooms. She testified that heavy cleaning takes 2-3 hours per week and tidying takes 1.5-1.75 hours. She noted that her home gets dusty a lot.

10. Laundry—great difficulty. The appellant was assessed at 60 minutes per week. She previously was assessed at 120 minutes per week. The United representative testified that the appellant cannot gather, sort, fold, put away, iron, or hang laundry. After discussion, the United representative testified she would give the appellant an additional 20 minutes per week, for a total of 80 minutes per week.

The appellant testified that her comforter is washed 3-4 times every 2 weeks. She testified that the

PCA does laundry 4 times per week due to incontinence. She also washes the appellant's mattress cover. The appellant testified that she is seeing double and cannot see the hanger to put clothes on or the dials on the laundry machine.

11. Medication management—great difficulty. The appellant was assessed at 84 minutes per week for medication management and 20 minutes per week for pill box set up. She previously was able to self-manage her medications.

The appellant is not contesting this modification.

12. Shopping—great difficulty. The appellant was assessed at 40 minutes per week. She previously was assessed at 50 minutes per week. The United representative testified that the appellant is unable to grasp a pen and write a shopping list. She also cannot bend, reach, push, or pull.

The appellant testified that she attempted to shop with her PCA a few times but could not tolerate standing. She testified that her PCA goes to two different supermarkets per week and goes somewhere else to pick up her medications as often as three times per week. The appellant testified that sometimes the PCA goes to the store 2-3 times per day if she runs out of milk or juice.

13. Transportation—great difficulty. The appellant was assessed at 104 minutes per week/1.5 hours per appointment. She previously was assessed at 320 minutes per week. The United representative testified that transportation entails the PCA driving and waiting with the appellant. She testified that she looked at the number of appointments the appellant has throughout the year and found that the appellant has up to 50 medical appointments yearly.

The appellant testified that her PCA attends appointments with her sometimes, and other times she gets a ride and the PCA takes her home (or vice versa). She testified that she requires rides to get an MRI or attend a pain clinic. The appellant testified that she can have as many as 5-6 appointments in a two-week period.

The appellant submitted two letters in support of her position. One letter, from a doctor at Boston Medical Center, indicates that the appellant's "medical, physical and psychological conditions continue to deteriorate." (Exhibit 5.) A letter from a doctor at Massachusetts General Hospital states that the appellant

has a chronic and progressive neurological condition...Throughout her disease course, [the appellant] has continued to have significant functional decline and requires the assistance of a walker or cane at times due to gait difficulties. In fact this has worsened in recent months. In addition to her physical disability and troubles with ambulation, she experiences cognitive difficulties and cramping in her hands....These needs are increasing, not decreasing...

(Exhibit 4.)

The United representative responded that the doctors' letters did not indicate the specific times for tasks needed by the appellant.

Findings of Fact

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

1. The appellant, who is over 65-years-old, is enrolled in United as her SCO.
2. On August 3, 2021, the appellant had a functional assessment in her home. A nurse observed her ADLs and determined that she needs 22 day/evening PCA hours and 14 nighttime hours per week.
3. On September 20, 2021, United informed the appellant that her PCA hours of 40 day/evening hours and 14 nighttime hours per week, which the United representative testified the appellant had been receiving for some time, would be modified to 22 day/evening hours and 14 nighttime hours per week as of August 28, 2021.
4. The appellant submitted a timely appeal on October 4, 2021.
5. The appellant has a primary diagnosis of cancer in the lungs and brain. She also has a history of hypertension and multiple sclerosis.
6. The United representative explained that "limited assist" means the appellant performs 50% of the task and the PCA performs 50%, and "extensive assist" means the appellant performs 25% of the task and the PCA performs 75%.
7. United made 13 modifications to the appellant's request for PCA services:
 - a. Transfers—moderate to extensive assist. The appellant was assessed at 105 minutes per week/15 minutes per day. The appellant previously was assessed to be a severe assist at 140 minutes per week/20 minutes per day. The nurse observed the appellant using her walker. The appellant fell 5-6 times inside and outside over the last two months. The appellant cannot transfer by herself and her right side is weaker than her left side. The appellant's symptoms have worsened since August and she holds on to a walker or cane with the PCA there. She leans on the PCA because she does not know when her legs are going to give out.
 - b. Walking/ambulation—moderate to limited assist. The appellant was assessed at 30 minutes per week/4 minutes per day. She previously was assessed to be a severe assist at 210 minutes per week/30 minutes per day. The appellant has her commode, walker, and cane near her. When she was assessed, she needed to hold on to her PCA to walk. If the appellant uses the cane, the PCA has constant contact with her.

If she uses the walker, the PCA walks in front of her or to her side, putting her hand around the appellant's waist. The appellant's ability to walk has worsened.

- c. Dressing—moderate to extensive assist. The appellant was assessed at 100 minutes per week/14 minutes per day. She previously was assessed to be a severe assist at 210 minutes per week/30 minutes per day. The appellant has chronic pain and limited range of motion, which makes reaching her shoulders difficult. The appellant needs the PCA to lift her arms and put on her bra. The appellant cannot bend at the waist. The appellant can pull up her underwear with one hand, but she cannot button, zip, tie her shoes, or button her coat. She sits on her bed while the PCA kneels and puts her legs into her pant holes. Then the appellant stands and the PCA buttons and zips her pants. The appellant has hand braces now and her fingers freeze without warning.
- d. Eating—independent. The appellant previously was assessed to have 70 minutes per week, but the United representative testified that was for meal preparation. The appellant can feed herself and denies difficulty swallowing or chewing. The appellant drinks from a sippy cup with a handle but it hurts her hand sometimes. The PCA cuts up her meals for her. The appellant can use a spoon but has difficulty using a fork. If her hand shakes, the PCA will take her wrist and guide the spoon to her mouth.
- e. Toileting—moderate to extensive assist. The appellant was assessed at 115 minutes per week/16 minutes per day. She previously was assessed to be a severe assist at 280 minutes per week/40 minutes per day. The appellant has chronic pain and limited range of motion. She needs someone to lift and hold her under her arms and has limited hand dexterity. The appellant is incontinent of urine and uses pull-ups, and she needs someone to lift her legs and remove her Depends. She leans on the counter and sits down with the assistance of the PCA. She requires help both getting on to and off of the toilet. If she soils herself, the PCA washes her. While she can wipe herself sometimes, she needs assistance from the PCA if she has a bowel movement.
- f. Personal hygiene and grooming—moderate to extensive assist. The appellant was assessed at 98 minutes per week/14 minutes per day. She previously was assessed to be a severe assist at 210 minutes per week/30 minutes per day. The appellant requires assistance to braid, comb, and wash her hair. The PCA lifts and holds the appellant's arm while the PCA shaves the appellant's armpits. The PCA brushes the appellant's dentures but the appellant is able to wash her hands and face. The PCA gives her a cloth to dry herself with. The PCA helps her with hair on her chin and shaves under her arms approximately twice per week. The PCA puts on deodorant for her. The PCA puts lotion on her legs, feet, and the rest of her body 4-5 times per week.

- g. Bathing—moderate to extensive assist. The appellant was assessed at 224 minutes per week/32 minutes per day. She previously was assessed to be a severe assist at 245 minutes per week/35 minutes per day. The appellant showers daily and the PCA lifts and holds the appellant under her arms while she steps into her shower chair. The appellant has a basin in the shower which the PCA fills with water so that she can soak her feet. She can wash her face, ears, and the front of her neck but cannot wash the back of her neck. If she is incontinent, she showers more often during the week. The appellant showers 10-12 times per week.
- h. Meal prep—great difficulty. The appellant was assessed at 245 minutes per week/35 minutes per day, which is the maximum time provided by United. The appellant previously was assessed at 420 minutes per week/60 minutes per day. The PCA receives little or no help from the appellant when preparing snacks, cold meals, and full meals. The appellant experiences extreme weakness and previously fell when trying to help. She is on a diabetic diet but has no special preparation needs, such as puree. The appellant can turn on the burner and get seasoning, but she is unable to boil water. She has cuts and burns on her hands and cannot use a knife because her hand shakes. For breakfast, she eats a bagel, eggs, toast, tea, or juice. For lunch, she eats a salad, sandwich, or macaroni and cheese. For dinner, she eats tuna with salad, steak, chicken, ribs, or potato salad. Her snacks consist of peanut butter crackers and pre-cut celery and carrot sticks. The appellant has two snacks per day.
- i. Housework—great difficulty. The appellant was assessed at 90 minutes per week. She previously was assessed at 120 minutes per week. The appellant cannot bend, lift, reach, pull, push, or carry. The PCA does her laundry, which is in her home, and puts it away. Her comforter must be taken to a laundry mat. The PCA also cleans the stove, washes the windows and slider, cleans the bathroom, waters the plants, cleans the floor, makes the bed, and defrosts the freezer. The appellant can wipe a table with a rag. She lives in a two-bedroom home but the PCA does not clean one of the bedrooms. Heavy cleaning takes 2-3 hours per week and tidying takes 1.5-1.75 hours. Her home gets dusty a lot.
- j. Laundry—great difficulty. The appellant was assessed at 60 minutes per week. She previously was assessed at 120 minutes per week. The appellant cannot gather, sort, fold, put away, iron, or hang laundry. The appellant's comforter is washed 3-4 times every 2 weeks. The PCA does laundry 4 times per week due to incontinence. She also washes the appellant's mattress cover. After discussion, the United representative testified she would give the appellant an additional 20 minutes per week, for a total of 80 minutes per week.
- k. Medication management—great difficulty. The appellant was assessed at 84 minutes per week for medication management and 20 minutes per week for pill box set up. She previously was able to self-manage her medications. The appellant is not contesting this modification.

- l. Shopping—great difficulty. The appellant was assessed at 40 minutes per week. She previously was assessed at 50 minutes per week. The appellant is unable to grasp a pen and write a shopping list. She also cannot bend, reach, push, or pull. The appellant attempted to shop with her PCA a few times but could not tolerate standing. The PCA goes to two different supermarkets per week and goes somewhere else to pick up her medications as often as three times per week. Sometimes the PCA goes to the store 2-3 times per day if the appellant runs out of milk or juice.
 - m. Transportation—great difficulty. The appellant was assessed at 104 minutes per week/1.5 hours per appointment. She previously was assessed at 320 minutes per week. Transportation entails the PCA driving and waiting with the appellant. The appellant has up to 50 medical appointments yearly. The PCA sometimes attends appointments with the appellant, and other times she gets a ride and the PCA takes her home (or vice versa). The appellant can have as many as 5-6 appointments in a two-week period.
8. The appellant submitted two letters in support of her position. One letter, from a doctor at [REDACTED], indicates that the appellant’s “medical, physical and psychological conditions continue to deteriorate.” (Exhibit 5.)
 9. A letter from a doctor at [REDACTED] states that the appellant

has a chronic and progressive neurological condition...Throughout her disease course, [the appellant] has continued to have significant functional decline and requires the assistance of a walker or cane at times due to gait difficulties. In fact this has worsened in recent months. In addition to her physical disability and troubles with ambulation, she experiences cognitive difficulties and cramping in her hands....These needs are increasing, not decreasing...

(Exhibit 4.)

Analysis and Conclusions of Law

A senior care organization is

an organization that participates in MassHealth under a contract with the MassHealth agency and Centers for Medicare & Medicaid Services (CMS) to provide a comprehensive network of medical, health-care, and social-service providers that integrates all components of care, either directly or through subcontracts. Senior

care organizations are responsible for providing enrollees with the full continuum of Medicare- and MassHealth-covered services.

(130 CMR 515.001.)

“When a member chooses to enroll in a senior care organization (SCO) in accordance with the requirements under 130 CMR 508.008, the SCO will deliver the member’s primary care and will authorize, arrange, integrate, and coordinate the provision of all covered services for the member.” (130 CMR 508.008(C).)

422.410: Activities of Daily Living and Instrumental Activities of Daily Living

(A) Activities of Daily Living (ADLs). Activities of daily living include the following categories of activities. Any number of activities within one category of activity is counted as one ADL:

- (1) mobility: physically assisting a member who has a mobility impairment that prevents unassisted transferring, walking, or use of prescribed durable medical equipment;
- (2) assistance with medications or other health-related needs: physically assisting a member to take medications prescribed by a physician that otherwise would be self-administered;
- (3) bathing or grooming: physically assisting a member with bathing, personal hygiene, or grooming;
- (4) dressing: physically assisting a member to dress or undress;
- (5) passive range-of-motion exercises: physically assisting a member to perform range-of-motion exercises;
- (6) eating: physically assisting a member to eat. This can include assistance with tube-feeding and special nutritional and dietary needs; and
- (7) toileting: physically assisting a member with bowel or bladder needs.

(B) Instrumental Activities of Daily Living (IADLs).

Instrumental activities of daily living include the following:

- (1) household services: physically assisting with household management tasks that are incidental to the care of the member, including laundry, shopping, and housekeeping;
- (2) meal preparation and clean-up: physically

- assisting a member to prepare meals;
- (3) transportation: accompanying the member to medical providers; and
- (4) special needs: assisting the member with:
 - (a) the care and maintenance of wheelchairs and adaptive devices;
 - (b) completing the paperwork required for receiving PCA services; and
 - (c) other special needs approved by the MassHealth agency as being instrumental to the health care of the member.

(C) Determining the Number of Hours of Physical Assistance. In determining the number of hours of physical assistance that a member requires under 130 CMR 422.410(B) for IADLs, the PCM agency must assume the following.

- (1) When a member is living with family members, the family members will provide assistance with most IADLs. For example, routine laundry, housekeeping, shopping, and meal preparation and clean-up should include those needs of the member.
- (2) When a member is living with one or more other members who are authorized for MassHealth PCA services, PCA time for homemaking tasks (such as shopping, housekeeping, laundry, and meal preparation and clean-up) must be calculated on a shared basis.
- (3) The MassHealth agency will consider individual circumstances when determining the number of hours of physical assistance that a member requires for IADLs.

422.411: Covered Services

- (A) MassHealth covers activity time performed by a PCA in providing assistance with ADLs and IADLs as described in 130 CMR 422.410, as specified in the evaluation described in 130 CMR 422.422(C) and (D), and as authorized by the MassHealth agency.
- (B) MassHealth covers transitional living program services provided by an organization in accordance with 130 CMR 422.431 through 422.441 and the MassHealth agency's proposal requirements.

422.412: Noncovered Services

MassHealth does not cover any of the following as part of the PCA program or the transitional living program:

- (A) social services, including, but not limited to, babysitting, respite care, vocational rehabilitation, sheltered workshop, educational services, recreational services, advocacy, and liaison services with other agencies;
- (B) medical services available from other MassHealth providers, such as physician, pharmacy, or community health center services;
- (C) assistance provided in the form of cueing, prompting, supervision, guiding, or coaching;
- (D) PCA services provided to a member while the member is a resident of a nursing facility or other inpatient facility, or a resident of a provider-operated residential facility subject to state licensure, such as a group home;
- (E) PCA services provided to a member during the time a member is participating in a community program funded by MassHealth including, but not limited to, day habilitation, adult day health, adult foster care, or group adult foster care;
- (F) services provided by family members, as defined in 130 CMR 422.402;
- (G) surrogates, as defined in 130 CMR 422.402; or
- (H) PCA services provided to a member without the use of EVV as required by the MassHealth agency.

The appellant's SCO program covers all services that are covered by MassHealth. The modified tasks are as follows:

1. Transfers—The appellant testified that she uses a walker or a cane and that her right side is weaker than her left side. She gave credible testimony that her condition has worsened since August and she does not know when her legs will give out. The letters from her doctors support her decline. The evidence indicates that it is medically necessary for the appellant to receive 140 minutes per week for transfers.
2. Walking/ambulation—The evidence indicates that the appellant needs to hold on to her PCA in order to walk and that the PCA has constant contact with the appellant when she uses her cane or walker. The letter from the appellant's doctor indicates that her gait difficulties have worsened. The appellant appears to be a severe assist, and 210 minutes per week for walking/ambulation is reasonable.
3. Dressing—The evidence shows that the appellant has chronic pain and limited range of motion, which prevent her from being able to dress independently. However, the appellant has not demonstrated why 100 minutes per week is insufficient for performing this task. It is unclear

whether the appellant requires multiple clothing changes during the day due to incontinence. The appellant has not carried her burden in this case, and 100 minutes per week is reasonable for dressing.

4. Eating—The evidence indicates that the appellant can feed herself and does not have difficulty chewing or swallowing. The PCA occasionally guides the spoon to the appellant's mouth if her hand is shaking. However, the appellant did not indicate how often this hands-on assistance occurs. The appellant has not carried her burden.

5. Toileting—The evidence shows that the appellant requires assistance getting on and off the toilet, and she is incontinent of bladder. She has the ability to wipe herself sometimes, but requires assistance from the PCA if she has a bowel movement. However, the appellant did not provide information on how often she requires help with her Depends during the day or how many bowel movements she has per day. She has not carried her burden, and 115 minutes per week is reasonable for the task of toileting, based upon the evidence presented.

6. Personal hygiene and grooming—The evidence shows that the PCA shaves the appellant's armpits twice per week and helps her with the hairs on her chin. She also braids, combs, and washes the appellant's hair, as well as brushes the appellant's dentures and gives her a drying cloth. The PCA also puts lotion on the appellant's body 4-5 times per week. The evidence also shows that the appellant experiences an increasing cramping in her hands. A time allotment of 210 minutes per week for personal hygiene and grooming is reasonable and supported by the evidence.

7. Bathing—The evidence shows that the appellant showers 10-12 times per week. The PCA assists the appellant into her shower chair and gives her a basin to soak her feet. The appellant can wash part of her body but cannot wash the back of her neck. If the appellant experiences incontinence, she showers more often. She continues to experience functional decline. The appellant has demonstrated that she requires 245 minutes per week for bathing.

8. Meal prep—The evidence shows that any help provided by the appellant in the area of meal prep is minimal. She cannot use a knife because her hand shakes and she is unable to boil water. The appellant experiences weakness. While she is on a diabetic diet she has no special preparation needs. The appellant eats three meals and two snacks per day. A time allotment of 420 minutes per week is reasonable for meal prep and is supported by the evidence.

9. Housework—The evidence shows that the appellant can wipe a table with a rag but cannot bend, lift, reach, pull, push, or carry. The appellant's home contains two bedrooms but the PCA only cleans one bedroom. The appellant has not shown that the time allotted for housework is insufficient, and 90 minutes per week is reasonable and supported by the evidence.

10. Laundry— The laundry is in the appellant's home and the comforter must be taken to the laundry mat. The appellant cannot gather, sort, fold, put away, iron, or hang laundry. The appellant's comforter is washed 3-4 times every 2 weeks. The PCA does laundry 4 times per week due to incontinence. She also washes the appellant's mattress cover. The time for laundry consists

of hands-on time and not time for the machines to work. Given this information, the United representative's offer of 80 minutes per week is reasonable and should address the appellant's needs.

11. Medication management—As the appellant is not contesting this time allotment, the appeal is dismissed as it relates to medication management.

12. Shopping—The appellant cannot participate in shopping by writing a list and cannot tolerate standing. The PCA goes to two different supermarkets per week and goes somewhere else to pick up the appellant's medications as often as three times per week. The previous allotment of 50 minutes per week for shopping is reasonable and supported by the evidence.

13. Transportation—The appellant has up to 50 medical appointments per year and the PCA drives and waits with the appellant. Other times, the PCA gives her a ride to the appointment or a ride home, but not both. The appellant did not indicate where these appointments are and how long it takes to get to each appointment. She has not carried her burden on this issue, and the allotment of 104 minutes per week is reasonable and supported by the evidence.

Order for the SCO

Modify the appellant's time for the above tasks consistent with this decision.

Implementation of this Decision

If this decision is not implemented within 30 days after the date of this decision, you should contact your MassHealth Enrollment Center. If you experience problems with the implementation of this decision, you should report this in writing to the Director of the Board of Hearings at the address on the first page of this decision.

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.

Samantha Kurkja
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: United Healthcare SCO, Attn: Cheryl A. Ellis, MD, LTC Medical Director, 950 Winter Street, Suite 3800, Waltham, MA 02451