

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision: Dismissed in part;
Denied in part

Appeal Number: 2178758

Decision Date: 01/26/2022

Hearing Date: 01/03/2022

Hearing Officer: Marc Tonaszuck

Appearance for Appellant:



Appearance for MassHealth:

Donna Burns, RN, Optum

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:	Dismissed in part; Denied in part	Issue:	Personal Care Attendant Services
Decision Date:	01/26/2022	Hearing Date:	01/03/2022
MassHealth's Rep.:	Donna Burns, RN, Optum	Appellant's Rep.:	■
Hearing Location:	Quincy Harbor South		

Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapter 118E, Chapter 30A, and the rules and regulations promulgated thereunder.

Jurisdiction¹

Through a notice dated 10/22/2021, MassHealth modified the appellant's prior authorization request for personal care attendant (PCA) services from a requested 87:15 day/evening hours per week plus 2 daily night time attendant hours to 46:00 day/evening hours per week plus 2 daily night time attendant hours (130 CMR 422.410; Exhibit 1). The appellant filed this appeal in a timely manner on 11/17/2021 (130 CMR 610.015(B); Exhibit 2). Modifications of a request for assistance are valid grounds for appeal (130 CMR 610.032).

Action Taken by MassHealth

¹ In MassHealth Eligibility Operations Memo (EOM) 20-09 dated April 7, 2020, MassHealth states the following:

- Regarding Fair Hearings during the COVID-19 outbreak national emergency, and through the end of month in which such national emergency period ends:
 - All appeal hearings will be telephonic; and
 - Individuals will have up to 120 days, instead of the standard 30 days, to request a fair hearing for member eligibility-related concerns.

MassHealth modified appellant's prior authorization request for personal care attendant services.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 422.410 and 450.204, in modifying appellant's prior authorization request for personal care attendant services.

Summary of Evidence

The MassHealth representative testified that she is registered nurse who works for Optum, the MassHealth contractor that makes the personal care attendant (PCA) decisions. She testified that a prior authorization request for PCA services was received on appellant's behalf on 10/08/2021 from her PCA provider, Greater Springfield Senior Services, Inc. ("provider"), and is an initial evaluation request for the dates of service of 10/22/2021 to 10/21/2022. In the prior authorization request for PCA services, the provider requested 87:15 day/evening hours per week plus 2 daily night time attendant hours. The appellant is in her late 50's and has a diagnosis of a stroke, leaving her with left-sided weakness. She also has a diagnosis of end-stage renal disease (Exhibit 4).

The Optum representative testified that MassHealth modified the PCA request to 46:00 day/evening hours per week plus 2 daily night time attendant hours. Modifications were made to the request for PCA services that include modifications in the activity of daily living (ADL) tasks of mobility, transfers, repositioning, bathing, dressing, undressing, eating, bladder care, medication pre-fill and checking blood pressure. Modifications were also made in the instrumental activities of daily living (IADL) tasks of housekeeping, shopping, and equipment maintenance.

Mobility

The appellant's PCA provider requested 7 minutes, 8 times per day, 7 days per week (7 X 8 X 7)² for assistance mobility. The provider noted that

The appellant lives with her son and daughter in law and she needs assist due a cardiovascular accident ("CVA" or "stroke") in 2013 with left sided weakness, pain, numbness of the left side, paralysis bilateral knee pain, and diabetes mellitus ("DM"). She has kidney disease has dialysis 3 days a week, she has fatigue, weakness history of seizures, asthma, low back pain, neck pain, left arm pain, depression, she was hospitalized for 4 days in September 2021 for an all over body rash. She is

² PCA time designated in this manner, (i.e., 20 X 1 X 7) means 20 minutes, 1 time per day, 7 times per week.

dependent for mobility she is in a wheelchair and needs 2-person assist for all transfers.

MassHealth modified the request for assistance with mobility to 3 X 8 X 7. The MassHealth nurse testified that the time requested is long than ordinarily required for someone with the documented medical conditions of the appellant. The nurse cited to the medical record submitted with the prior authorization ("PA") request that states the appellant spends most of her day in bed and uses a wheelchair. She is not independent in the wheelchair and she must be pushed.

The appellant's son represented the appellant in this matter. He was assisted with a Nepali interpreter. The son testified that he needs help with the appellant. She wants to walk around and exercise. She likes to get up and walk using the walker. Her exercise is necessary because of her back pain.

Transfers

The appellant's provider requested 7 X 8 X 7 for assistance with transfers. The provider's comments are noted above. MassHealth modified the request for assistance with transfers to 2 X 8 X 7. The MassHealth nurse testified that the time requested is longer than ordinarily required for someone with the conditions of the appellant. This time is the time it takes to assist the appellant to go from bed to the chair or to the wheelchair.

The appellant's son testified that two minutes is not sufficient to assist the appellant with transfers. He stated that the appellant has patches to control her pain and the PCA must be careful when assisting her to transfer because some parts of her body are very painful and in others, she has no feeling. Sometimes if the PCA touches the appellant's patches, she will begin to bleed. The appellant has a tracheotomy tube and her neck is painful.

Repositioning

The appellant's provider requested 5 X 4 X 7 for assistance with repositioning. The provider's comments are above. MassHealth modified the request for assistance with repositioning to 2 X 4 X 7. The MassHealth nurse testified that the time requested is longer than what is ordinarily required for someone with the appellant's conditions. She explained that the time for repositioning is to help the appellant get comfortable once she is assisted to bed or to a chair.

The appellant's son testified that the appellant is uncomfortable and scared. It takes more than two minutes.

Bathing

The appellant's provider requested 60 X 2 X 7 for assistance with showering and 7 X 2 X 7 for assistance with transfer to the shower. The provider noted that the appellant needs

physical assistance with showering activity, including routine transfers; physical assistance with sponge, bed bath, and drying, including routine transfers. she needs assist due to paralysis , CVA left sided weakness, numbness and pain, left arm pain, neck pain, back pain, AROM deficits, decreased strength, impaired sitting balance, impaired mobility, balance issues, impaired bending, reaching, dizziness, [appellant] has excessive sweating and the family states that she gets 2 showers a day, and while in the shower it takes a long time - takes two people to bath her besides transfer, they have to be very careful of her dialysis port hitting or different movements causes bleeding, increased SOB.

MassHealth modified the request for assistance with bathing to 45 X 1 X 7 for assistance with showering and 15 X 1 X 7 for assistance with transfer to the shower. The MassHealth nurse testified that the time requested for assistance in this area is longer than what is ordinarily needed for someone with the appellant's conditions. She also stated that the frequency was modified because the report of the occupational therapist, attached to the PA request, states the appellant bathes once per day.

The appellant's son testified that the appellant has very sensitive skin; in fact, she was recently hospitalized for a rash. The PCA needs to be "very careful," when assisting with bathing. She needs at least one hour when she is sick. When she is not sick, 45 minutes is sufficient.

Dressing/Undressing

The appellant's provider requested 30 X 1 X 7 for dressing and 30 X 1 X 7 for undressing. The provider noted that the appellant requires physical assistance with upper extremity dressing/undressing; physical assistance with lower extremity dressing/undressing; physical assistance with donning/doffing footwear; physical assist with prosthetics and orthotics/braces.

MassHealth modified the request for dressing to 20 X 1 X 7 and for undressing to 15 X 1 X 7. The MassHealth representative testified that the time requested is longer than ordinarily required for someone with the appellant's conditions.

The appellant's son testified that the appellant's left side is weak and that it takes a long time to assist her dressing and undressing.

Eating

The appellant's provider requested 10 X 6 X 7 for assistance with eating. The provider noted that she needs assistance due to paralysis, CVA left sided weakness, numbness and pain, left arm pain, neck pain, back pain, AROM deficits, decreased strength, impaired sitting balance, impaired mobility, balance issues, impaired bending, reaching, and dizziness.

MassHealth modified the request for assistance with eating to 5 X 3 X 7. The MassHealth representative testified that the OT report attached to the PA request states that the appellant needs minimum assistance with eating and she has use of her right hand. Based on that information, the request was modified because it is longer than normally required for someone with the appellant's conditions.

Toileting

The appellant's provider requested 20 X 6 X 7 for assistance with bladder care, 20 X 1 X 7 for assistance with bowel care and 5 X 6 X 7 for toilet transfers. The provider noted that the appellant requires physical assistance with toilet hygiene; physical assistance with clothing management; and physical assistance with changing absorbent product. She requires two-person assist with transfers due to paralysis, CVA left sided weakness, numbness and pain, left arm pain, neck pain, back pain, AROM deficits, decreased strength, impaired sitting balance, impaired mobility, balance issues, impaired bending, reaching, and dizziness.

MassHealth modified the request for assistance with bladder care to 10 X 6 X 7 and with bowel care to 15 X 1 X 7. MassHealth denied the time for assistance with toileting transfers. The MassHealth representative testified that the time requested is longer than what is ordinarily required for someone with the appellant's conditions. Also, the documentation indicates that the appellant uses a bed-side commode, which should reduce the amount of time for transfers and assistance.

The appellant's son testified that he agreed that the modification MassHealth made in the area of assistance with bowel care would provide adequate time; however, the appellant needs the full time requested for assistance with bladder care and for the transfers. She has leakage in her incontinence pads.

Medication Pre-Fill

The appellant's provider requested 15 X 1 X 1 for assistance with prefilling the appellant's medication. MassHealth initially modified the request to 10 X 1 X 1; however, the full time requested was restored at the fair hearing.

Checking Blood Pressure

The appellant's provider requested 5 X 3 X 7 for assistance with checking the appellant's blood pressure. The provider noted that the appellant "has to have blood pressure checked due to her B/P could be too low or too high she needs assist due to paralysis."

MassHealth denied the request for assistance checking blood pressure. The MassHealth nurse testified that there was no medical necessity documented in the PA request to show that this task must be done by the PCA.

The appellant's son testified that the appellant's doctor requested that this task be performed by the PCA.

Housekeeping

The appellant's provider requested 60 X 1 X 1 for assistance with housekeeping. The provider noted that the appellant "needs assistance due to paralysis, CVA left sided weakness, numbness and pain, left arm pain, neck pain, back pain, AROM deficits, decreased strength, impaired sitting balance, impaired mobility, balance issues, impaired bending, reaching, [and] dizziness."

MassHealth modified the request for assistance with housekeeping to 45 X 1 X 1. The MassHealth nurse testified that the time requested is longer than ordinarily required for someone with the appellant's conditions. Additionally, she testified that the appellant lives with her adult son and daughter-in-law and IADL's must be shared.

The appellant's son testified that 45 minutes per week is acceptable for assistance with this task.

Shopping

The appellant's provider requested 60 minutes per week for assistance with shopping. MassHealth initially modified the request for assistance with shopping to 30 minutes per week; however, at hearing, MassHealth restored all time requested in this area.

Equipment Maintenance

The appellant's provider requested 70 X 1 X 1 for assistance with equipment maintenance. The provider noted that the appellant needs assistance maintaining her wheelchair. MassHealth modified the request for assistance with equipment maintenance to 20 X 1 X 1. The MassHealth nurse testified that the appellant has one piece of equipment, the wheelchair, and that 20 minutes per week should be adequate to maintain the wheelchair.

The appellant's son testified that the appellant also has a walker. The PCA spends about 45 minutes per week maintaining the equipment.

Findings of Fact

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

1. MassHealth received a prior authorization request for PCA services on appellant's behalf on 10/08/2021 from her PCA provider, Greater Springfield Senior Services, Inc. ("provider"), and is an initial evaluation request for the dates of service of 10/22/2021 to 10/21/2022 (Testimony; Exhibit 4).
2. In the prior authorization request for PCA services, the provider requested 87:15 day/evening hours per week plus 2 daily night time attendant hours. (Testimony; Exhibit 4).
3. The appellant is in her late 50's and has a diagnosis of a stroke, leaving her with left-sided weakness. She also has a diagnosis of end-stage renal disease (Testimony; Exhibit 4).
4. MassHealth modified the PCA request to 46:00 day/evening hours per week plus 2 daily night time attendant hours (Testimony; Exhibits 1 and 4).
5. The appellant's PCA provider requested 7 minutes, 8 times per day, 7 days per week (7 X 8 X 7) for assistance mobility. The provider noted that "the appellant lives with her son and daughter in law and she needs assist due a cardiovascular accident ("CVA" or "stroke") in 2013 with left sided weakness, pain, numbness of the left side, paralysis bilateral knee pain, and diabetes mellitus ("DM"). She has kidney disease has dialysis 3 days a week, she has fatigue, weakness history of seizures, asthma, low back pain, neck pain, left arm pain, depression, she was hospitalized for 4 days in September 2021 for an all over body rash. She is dependent for mobility she is in a wheelchair and needs 2-person assist for all transfers" (Testimony; Exhibit 4).
6. MassHealth modified the request for assistance with mobility to 3 X 8 X 7 (Testimony; Exhibits 1 and 4).
7. The medical record submitted with the prior authorization ("PA") request states the appellant spends most of her day in bed and uses a wheelchair. She is not independent in the wheelchair and she must be pushed (Testimony; Exhibits 1 and 4).
8. The appellant's provider requested 7 X 8 X 7 for assistance with transfers. The provider's comments are noted above. MassHealth modified the request for assistance with transfers to 2 X 8 X 7. The MassHealth nurse testified that the time requested is longer than ordinarily required for someone with the conditions of the

appellant. This time is the time it takes to assist the appellant to go from bed to the chair or to the wheelchair (Testimony; Exhibit 4).

9. MassHealth modified the request for assistance with transfers to 2 X 8 X 7 (Testimony; Exhibit 4).
10. The appellant's provider requested 5 X 4 X 7 for assistance with repositioning. The provider's comments are above (Testimony; Exhibit 4).
11. MassHealth modified the request for assistance with repositioning to 2 X 4 X 7. (Testimony; Exhibit 4).
12. The appellant's provider requested 60 X 2 X 7 for assistance with showering and 7 X 2 X 7 for assistance with transfer to the shower. The provider noted that the appellant needs "physical assistance with showering activity, including routine transfers; physical assistance with sponge, bed bath, and drying, including routine transfers. she needs assist due to paralysis, CVA left sided weakness, numbness and pain, left arm pain, neck pain, back pain, AROM deficits, decreased strength, impaired sitting balance, impaired mobility, balance issues, impaired bending, reaching, dizziness, [appellant] has excessive sweating and the family states that she gets 2 showers a day, and while in the shower it takes a long time - takes two people to bath her besides transfer, they have to be very careful of her dialysis port hitting or different movements causes bleeding, increased SOB" (Testimony; Exhibit 4).
13. MassHealth modified the request for assistance with bathing to 45 X 1 X 7 for assistance with showering and 15 X 1 X 7 for assistance with transfer to the shower day (Testimony; Exhibit 4).
14. The report of the occupational therapist, attached to the PA request, states the appellant bathes once per day (Testimony; Exhibit 4).
15. The appellant's provider requested 30 X 1 X 7 for dressing and 30 X 1 X 7 for undressing. The provider noted that the appellant requires physical assistance with upper extremity dressing/undressing; physical assistance with lower extremity dressing/undressing; physical assistance with donning/doffing footwear; physical assist with prosthetics and orthotics/braces (Testimony; Exhibits 1 and 4).
16. MassHealth modified the request for dressing to 20 X 1 X 7 and for undressing to 15 X 1 X 7 (Testimony; Exhibit 4).
17. The appellant's provider requested 10 X 6 X 7 for assistance with eating. The provider noted that she needs assistance due to paralysis, CVA left sided weakness, numbness and pain, left arm pain, neck pain, back pain, AROM deficits, decreased strength, impaired sitting balance, impaired mobility, balance issues,

impaired bending, reaching, and dizziness (Testimony; Exhibit 4).

18. MassHealth modified the request for assistance with eating to 5 X 3 X 7 (Testimony; Exhibit 4).
19. The MassHealth representative testified that the OT report attached to the PA request states that the appellant needs minimum assistance with eating and she has use of her right hand (Testimony; Exhibit 4).
20. The appellant's provider requested 20 X 6 X 7 for assistance with bladder care, 20 X 1 X 7 for assistance with bowel care and 5 X 6 X 7 for toilet transfers. The provider noted that the appellant requires physical assistance with toilet hygiene; physical assistance with clothing management; and physical assistance with changing absorbent product. She requires two-person assist with transfers due to paralysis, CVA left sided weakness, numbness and pain, left arm pain, neck pain, back pain, AROM deficits, decreased strength, impaired sitting balance, impaired mobility, balance issues, impaired bending, reaching, and dizziness (Testimony; Exhibit 4).
21. MassHealth modified the request for assistance with bladder care to 10 X 6 X 7 and with bowel care to 15 X 1 X 7 (Testimony; Exhibit 4).
22. MassHealth denied the time for assistance with toileting transfers (Testimony; Exhibit 4).
23. The appellant has a bed-side commode that she uses (Testimony; Exhibit 4).
24. The appellant's provider requested 15 X 1 X 1 for assistance with prefilling the appellant's medication (Testimony; Exhibit 4).
25. MassHealth initially modified the request for assistance with prefilling medication to 10 X 1 X 1; however, the full time requested was restored at the fair hearing (Testimony; Exhibit 4).
26. The appellant's provider requested 5 X 3 X 7 for assistance with checking the appellant's blood pressure. The provider noted that the appellant "has to have blood pressure checked due to her B/P could be too low or too high she needs assist due to paralysis" (Testimony; Exhibit 4).
27. MassHealth denied the request for assistance checking blood pressure (Testimony; Exhibit 4).
28. There is no documentation in the hearing record to show the medical necessity for a PCA to take the appellant's blood pressure (Testimony).

29. The appellant's provider requested 60 X 1 X 1 for assistance with housekeeping. The provider noted that the appellant "needs assistance due to paralysis, CVA left sided weakness, numbness and pain, left arm pain, neck pain, back pain, AROM deficits, decreased strength, impaired sitting balance, impaired mobility, balance issues, impaired bending, reaching, [and] dizziness" (Testimony; Exhibit 4).
30. MassHealth modified the request for assistance with housekeeping to 45 X 1 X 1 (Testimony; Exhibit 4).
31. The appellant lives with her adult son and daughter-in-law (Testimony; Exhibit 4).
32. The appellant's appeal representative, her son, agreed that the time modified by MassHealth for assistance with housekeeping would be sufficient (Testimony).
33. The appellant's provider requested 60 minutes per week for assistance with shopping (Testimony; Exhibit 4).
34. MassHealth initially modified the request for assistance with shopping to 30 minutes per week; however, at hearing, MassHealth restored all time requested in this area (Testimony; Exhibit 4).
35. The appellant's provider requested 70 X 1 X 1 for assistance with equipment maintenance. The provider noted that the appellant needs assistance maintaining her wheelchair (Testimony; Exhibit 4).
36. MassHealth modified the request for assistance with equipment maintenance to 20 X 1 X 1 (Testimony; Exhibit 4).
37. The appellant has two pieces of medical equipment, the wheelchair and the walker (Testimony).

Analysis and Conclusions of Law

Regulations at 130 CMR 450.204 described medical necessity, as follows:

The MassHealth agency will not pay a provider for services that are not medically necessary and may impose sanctions on a provider for providing or prescribing a service or 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, or 517.007 (emphasis added).

Regulations at 130 CMR 422.412 describe non-covered PCA 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;
- (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; or
- (G) surrogates, as defined in 130 CMR 422.402.

To qualify for services under the PCA program, the member must meet the conditions defined at 130 CMR 422.403, below:

(C) MassHealth covers personal care services provided to eligible MassHealth members who can be appropriately cared for in the home when all of the following conditions are met:

- (1) The personal care services are prescribed by a physician or a nurse practitioner who is responsible for the oversight of the member's health care.
- (2) The member's disability is permanent or chronic in nature and impairs the member's functional ability to perform ADLs and IADLs without physical assistance.

(3) The member, as determined by the personal care agency, requires physical assistance with two or more of the following ADLs as defined in 130 CMR 422.410(A):

- (a) mobility, including transfers;
- (b) medications,
- (c) bathing/grooming;
- (d) dressing or undressing;
- (e) range-of-motion exercises;
- (f) eating; and
- (g) toileting

(4) The MassHealth agency has determined that the PCA services are medically necessary and has granted a prior authorization for PCA services (emphasis added).

The type of PCA services available are described in 130 CMR 422.410 below:

(A) Activities of Daily Living (ADLs). Activities of daily living include the following:

- (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/grooming: physically assisting a member with basic care such as bathing, personal hygiene, and grooming skills;
- (4) dressing or undressing: 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 and 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 personal care 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 personal care 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 personal care 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.

The appellant has the burden "to demonstrate the invalidity of the administrative determination." See *Andrews vs. Division of Medical Assistance*, 68 Mass. App. Ct. 228. Moreover, the burden is on the appealing party to demonstrate the invalidity of the administrative determination. See *Fisch v. Board of Registration in Med.*, 437 Mass. 128, 131 (2002); *Faith Assembly of God of S. Dennis & Hyannis, Inc. v. State Bldg. Code Commn.*, 11 Mass. App. Ct. 333 , 334 (1981); *Haverhill Mun. Hosp. v. Commissioner of the Div. of Med. Assistance*, 45 Mass. App. Ct. 386 , 390 (1998).

MassHealth modified the appellant's request for PCA time. In the areas of prefilling medication and shopping, MassHealth restored all time requested because of the testimony presented by the appellant's son. Accordingly, the appeal is dismissed with regard to the modifications made in those areas.

In the area of housekeeping, the appellant's son agreed with the time, as modified by MassHealth. Thus, this portion of the appeal is denied.

As to the other tasks, MassHealth made modifications based on medical necessity. The MassHealth representative, a registered nurse, testified credibly that the time requested is longer than is ordinarily required for someone with the appellant's conditions. The burden is on the appellant to show why MassHealth's decision is incorrect or not otherwise supported by the evidence. In all of the above cases, the appellant's son testified that the time modified by MassHealth was not adequate for assistance in those areas. The appellant provided no evidence to show what time was necessary. An example of evidence that might be probative would be time logs, showing the start and finish time for assistance in those areas. By simply expressing that the time approved by MassHealth "was not enough," the appellant does not meet her burden. As a result, the modifications

made by MassHealth in the above tasks is supported by the facts in the hearing record and the regulations. Thus, this portion of the appeal is denied.

For the foregoing reasons, this appeal is dismissed in part; denied in part.

Order for MassHealth

For the dates of service of 10/22/2021 to 10/21/2022, restore all time requested in the areas of prefilling medication and shopping. With regard to all other modifications, none.

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, Division of Medical Assistance, 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.

Marc Tonaszuck
Hearing Officer
Board of Hearings

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