

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Approved-in-part; Denied-in-part	<b>Appeal Number:</b>	2179335
<b>Decision Date:</b>	2/24/2022	<b>Hearing Date:</b>	01/11/2022
<b>Hearing Officer:</b>	Casey Groff		

**Appearance for Appellant:**  
*Pro se*

**Appearance for MassHealth:**  
Cheryl Eastman, R.N., Clinical Reviewer



*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

<b>Appeal Decision:</b>	Approved-in-part; Denied-in-part	<b>Issue:</b>	Personal Care Attendant Services
<b>Decision Date:</b>	2/24/2022	<b>Hearing Date:</b>	01/11/2022
<b>MassHealth's Rep.:</b>	Cheryl Eastman, R.N.	<b>Appellant's Rep.:</b>	<i>Pro se</i>
<b>Hearing Location:</b>	Board of Hearings (Remote)	<b>Aid Pending:</b>	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 December 6, 2021, MassHealth informed Appellant that it was modifying her request for personal care attendant (PCA) services. See 130 CMR 450.204.(A)(1) and Exhibit 1. Appellant filed this appeal in a timely manner on December 10, 2021. See 130 CMR 610.015(B); Exhibit 2. Modification of a request for PCA services is a valid basis for appeal. See 130 CMR 610.032.

## Action Taken by MassHealth

MassHealth modified Appellant's request for PCA services.

## Issue

The appeal issue is whether MassHealth was correct in modifying Appellant's request for PCA services.

## Summary of Evidence

At the hearing, MassHealth was represented by a registered nurse/clinical appeals reviewer. Appellant represented herself at the hearing. Both parties appeared via telephone.

Through testimony and documentary evidence, the MassHealth R.N. representative presented the following information: Appellant is under the age of 65 and has diagnoses including but not limited to: transverse myelitis (inflammation of the spinal cord), right hemiplegia, left hemiparesis, chronic pain, and diabetes mellitus type 2. See Exh. 4, p. 8. On November 24, 2021, after conducting an annual re-evaluation, Appellant's personal care management (PCM) agency sent MassHealth a prior authorization (PA) request on behalf of Appellant seeking personal care attendant (PCA) services for dates of service beginning January 27, 2022 through January 26, 2023. See Exh. 1. The request sought a total of 53 hours and 45 minutes per week of day/evening PCA services and two-hours per night (14 hours per week) of nighttime PCA services. Id.

On December 6, 2021, MassHealth notified Appellant that it was modifying her PA request by approving 51 hours per week of day/evening PCA services and two-nighttime hours per week. Id. The specific activities of daily living (ADLs) that were modified pertained to (1) mobility/mechanical lift transfers, and (2) other healthcare needs/suprapubic catheter change. Id.

The parties first addressed the ADL category of mobility. The PCM agency requested 25 minutes two-times per-day seven days per-week (25x2x7) for two PCAs to assist in transferring Appellant from her bed to wheelchair via a mechanical Hoyer lift. See Exh. 4, p. 11. The documentation submitted in support of the request notes that Appellant is dependent for all transfers and states in relevant part, the following:

[Appellant] is bedridden, with impaired voluntary motor and sensory control [in all extremities] from [the] chest down; right arm/hand is contracted; minimal voluntary control of bilateral legs; foot drop bilaterally; impaired range of motion of all extremities...She is assisted via Hoyer lift to wheelchair daily for exercise and to optimize musculoskeletal function. She requires assistance with repositioning several times daily and at night to prevent skin breakdown. Transfers require the assistance of two people. She has a long-standing history of pressure sores on her feet and buttocks, currently none.

See Exh. 4, p. 9.

MassHealth modified the requested time for Hoyer lift transfers to 20x2x7. See Exh. 1. The MassHealth representative testified the time per-episode was reduced because when two people are performing a Hoyer transfer, it takes less time to complete the transfer than when performed by one person. The representative also noted that this transfer time is in addition to time MassHealth approved-in-full for repositioning. The 20 minutes should be sufficient for two PCAs to complete the sole task of transferring Appellant from her bed to wheelchair each day.

In response, Appellant testified that the transfer process is much more complicated and takes at least 25 minutes, despite having two PCAs present to assist. First, the PCAs stand at each end of the bed, then angle her in a position so that she can be lifted into the Hoyer. Once in the Hoyer, she is then lifted toward the wheelchair. The longest and most difficult part of the process involves transferring her into the wheelchair, which is old and in need of adjustments and/or replacement. It takes a while for the PCAs to get her in a correct sitting position; sometimes she is too far up or too far down. Appellant testified that it's not as if once she gets to her chair then the task is done. The PCA's still need to adjust and transition her so that she is correctly positioned in her wheelchair.

Second, the parties addressed the modification made to changing Appellant's suprapubic catheter. In the PA request, the PCM agency noted that Appellant "has an indwelling supra pubic catheter which requires daily cleansing of area, flushing of catheter and emptying of bag; stoma dressing and catheter are changed frequently because of urine leakage" and that "she experiences frequent urinary tract infections, with hospitalization." Id. at 9. Under the ADL category of "other healthcare needs," Appellant requested 15 minutes daily (15x1x7) for a PCA to change her suprapubic catheter. See Exhibit 4, p. 19-20. Under the request, the PCM agency noted that Appellant "is dependent for suprapubic catheter change twice monthly." Id. at 20.

MassHealth did not approve any time for the suprapubic catheter change (0x0). The MassHealth representative explained that time for this task was denied because it is beyond the standard of care a PCA can provide. A suprapubic catheter is a tube that is inserted inside the body and typically changed by a nurse or a doctor. MassHealth approved all the requested time for bladder care, including daily episodes for emptying the foley/urostomy bag. The urostomy bag, which is attached to the catheter may be emptied by the PCA; however, the changing of the actual catheter, which goes inside the body, is not a reimbursable PCA task.

In response, Appellant testified that both she and her PCA were taught by a skilled nurse how to change the catheter at home. There have not been any problems with the PCA doing this. It is a simple task where the PCA pops it in. Because the PCA can do it, she does not require a nurse to come each time it needs to be changed.

## **Findings of Fact**

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

1. Appellant is under the age of 65 and has diagnoses including but not limited to: transverse myelitis, right hemiplegia, left hemiparesis, chronic pain, and diabetes mellitus type 2.
2. [Appellant] is bedridden, with impaired voluntary motor and sensory control [in all extremities] from [the] chest down; right arm/hand is contracted; minimal voluntary

control of bilateral legs; foot drop bilaterally; impaired range of motion of all extremities...

3. On November 24, 2021, after conducting an annual re-evaluation, Appellant's PCM agency sent MassHealth a PA request on behalf of Appellant seeking a total of 53 hours and 45 minutes per week of day/evening PCA services and two-hours per night (14 hours per week) of nighttime PCA services for dates of service beginning January 27, 2022 through January 26, 2023.
4. On December 6, 2021, MassHealth notified Appellant that it was modifying her PA request by approving 51 hours per-week of day/evening PCA services and two-nighttime hours per-week.
5. MassHealth modified the request in the areas of (1) mobility/mechanical lift transfers and (2) other healthcare needs/suprapubic catheter change.

#### Transfers

6. Appellant, through her PCM agency, requested 25 minutes two times per-day seven days per-week (25x2x7) to assist with mobility/transferring from her bed to wheelchair, and back, via a mechanical Hoyer lift.
7. Appellant is dependent for transfers and requires assistance of two people when using a Hoyer lift.
8. Appellant is transferred via Hoyer lift from her bed to her wheelchair daily for exercise and to optimize musculoskeletal function.
9. MassHealth modified the requested time for Hoyer lift transfers to 20x2x7 because it determined that it does not take as much overall time for to complete a transfer when being performed by two people.
10. This process involves having the assistance of two PCAs to stand on each side of Appellant, position her into the Hoyer; once secured in the Hoyer, they lift her to the wheelchair; then the PCAs have to transition her from the Hoyer lift to the wheelchair and then adjust her so that she is positioned in her chair correctly.

#### Catheter Change

11. Appellant "has an indwelling supra pubic catheter which requires daily cleansing of area, flushing of catheter and emptying of bag; stoma dressing and catheter are changed frequently because of urine leakage" and that "she experiences frequent urinary tract infections, with hospitalization."

12. Appellant requested fifteen minutes daily (15x1x7) for a PCA to change her suprapubic catheter.
13. Under the request, the PCM noted that Appellant “is dependent for suprapubic catheter change twice monthly.”
14. MassHealth did not approve any time for the suprapubic catheter change (0x0) because it determined that this task is beyond the scope of services a PCA is expected to provide.
15. MassHealth approved all the requested time for bladder care, including daily episodes for emptying the foley/urostomy bag.

## Analysis and Conclusions of Law

MassHealth will pay for personal care attendant services to eligible members who can appropriately be cared for in the home, so long as the following conditions are met:<sup>1</sup> First, the services must be “prescribed by a physician or nurse practitioner who is responsible for the member’s...care.” 130 CMR 422.403(C)(1). Additionally, the “member’s disability [must be] permanent or chronic in nature and impair[] the member’s functional ability to perform [at least two] ADLs ... without physical assistance. See 130 CMR 422.403(C)(2)-(3). Finally, MassHealth must determine that the requested services are medically necessary. See 130 CMR 422.403(4). 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.

See 130 CMR 450.204(A).

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<sup>1</sup> PCA services are defined as “physical assistance with ADLs and IADLs provided to a member by a PCA in accordance with the member’s authorized evaluation or reevaluation, service agreement, and 130 CMR 422.410.” See 130 CMR 422.002.

Additionally, medically necessary services must “be of a quality that meets professionally recognized standards of health care, and must be substantiated by the record including evidence of such medical necessity and quality.” 130 CMR 450.204(B).

Here, there is no dispute that Appellant meets all the pre-requisites to qualify for PCA services. This appeal addresses whether MassHealth allotted sufficient time, in accordance with program regulations, for Appellant to receive PCA assistance in performing her ADLs, specifically with respect to mobility and other healthcare needs (i.e. suprapubic catheter change). MassHealth covers PCA services that assist members in performing the following ADLs:

(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 or grooming: physically assisting a member with bathing, personal hygiene, or grooming;
- (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.

See 130 CMR 422.410

MassHealth will reimburse for the “activity time performed by a PCA in providing assistance with the ADL.” 130 CMR 422.411. MassHealth does not, however, pay for “assistance provided in the form of cueing, prompting, supervision, guiding, or coaching.” 130 CMR 422.412(C)

Mobility/Hoyer Lift Transfers

Appellant met her burden in demonstrating that 25 minutes (25x2x7) of PCA assistance with bed-to-wheelchair transfers, as requested, is medically necessary. For this modification, MassHealth reduced the time from 25 minutes to 20 minutes, each. This decision was based, in

part, on the premise that a two-person assisted transfer, as was requested here, takes less overall time to complete than when being performed by one person. The evidence indicates that Appellant is totally dependent for all transfers. She is bedridden with impaired voluntary motor and sensory control in all extremities. The process of transferring Appellant involves multiple steps, including lifting her from her bed into the Hoyer, the Hoyer to the wheelchair, and to then position her correctly in the wheelchair. This last step, Appellant testified, was the most time-consuming and requires the PCAs to adjust and re-adjust her to ensure she is situated correctly. Thus, despite having the assistance of two PCAs, the evidence sufficiently supports Appellant's need for 25 minutes of PCA assistance (per episode) with mechanical lift transfers. This part of the appeal is APPROVED.

#### Other Healthcare Needs/Suprapubic Catheter Change

Based on the evidence in the record, MassHealth appropriately denied Appellant's request for 15 minutes per-day for the PCA to change her suprapubic catheter. As testified to at hearing, MassHealth approved in full the total amount of PCA time requested for both bowel and bladder care, including daily episodes for emptying her foley/urostomy bag. However, changing one's suprapubic catheter, which Appellant's PCM agency requested under the category of "other healthcare needs," is beyond the scope of services MassHealth contemplated in 130 CMR 422.410(A). MassHealth persuasively testified that because this task involves removing a tube that is placed inside the person's body, it is typically performed by a nurse or doctor. While Appellant's PCA may have indeed been taught by the nurse how to change the catheter, MassHealth regulations limit coverage to services it determines are of "a quality that meets professionally recognized standards of care." 130 CMR 450.204(A). Because MassHealth determined it is outside the standard of care for a PCA to complete this task, MassHealth did not err in denying the requested time. For these reasons, this part of the appeal is DENIED.

## **Order for MassHealth**

Approve the requested time/frequency for mechanical lift transfers at 25x2x7 for the duration of the PA period beginning January 27, 2022 through January 26, 2023.

MassHealth's modification to "other healthcare needs/suprapubic catheter change" (0x0) will remain as stated in the December 6, 2021 notice.



## **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.

## **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.

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Casey Groff  
Hearing Officer  
Board of Hearings

cc:

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