

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2179388
Decision Date:	2/24/2022	Hearing Date:	01/11/2022
Hearing Officer:	Casey Groff		

Appearance for Appellant:




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

Appeal Decision:	Approved	Issue:	Personal Care Attendant Services
Decision Date:	2/24/2022	Hearing Date:	01/11/2022
MassHealth's Rep.:	Cheryl Eastman, R.N.	Appellant's Rep.:	
Hearing Location:	Board of Hearings (Remote)	Aid Pending:	No

Authority

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

Jurisdiction

Through a notice dated November 18, 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 13, 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 was represented by herself and a social worker from Partners Home Care. Both parties appeared via telephone.

Through testimony and documentary evidence, the MassHealth R.N. representative presented the following information: Appellant is over the age of 65 and has diagnoses of multiple sclerosis, spastic quadriplegia, depression, anxiety, chronic urinary tract infections (UTIs), and chronic constipation. See Exh. 4, p. 8. On October 14, 2021, Appellant's Personal Care Management (PCM) agency performed an annual re-evaluation of Appellant to assess her need for continued personal care attendant (PCA) services. Notes from the re-evaluation indicate that Appellant is non-ambulatory, has no function in her arms or legs, has contracted hands and fingers, and has been living independently since the death of her father in the summer. Id. Following the assessment, Appellant's PCM agency sent MassHealth a prior authorization (PA) request on behalf of Appellant seeking 78 hours and 15 minutes per-week and 2 hours per-night (14 hours per-week) of PCA services beginning December 1, 2021 through November 30, 2022. See Exh. 1; Exh. 4.

On November 18, 2021, MassHealth notified Appellant that it was modifying her PA request by approving 72 hours and 45 minutes per week of day/evening PCA services and approving the two nighttime PCA services per night. See Exh. 1. Specifically, MassHealth modified the times requested for PCA assistance with (1) wound care and (2) equipment maintenance. Id.

The parties first addressed the ADL category of wound care. Under the ADL category of "other healthcare needs," Appellant's PCM agency requested 30 minutes, twice daily, seven days-per week (30x2x7) for a PCA to tend to Appellant's healing wounds on the right and left sides of her buttocks. See Exh. 4, p. 8; 19-20. Notes show that the PCA applies dry pad dressings (DPD) to both sides of the buttocks and to protect skin integrity. See id. at 19-20.

MassHealth modified the requested time for wound care to 10 minutes twice daily, seven days per week (10x2x7). See Exh. 1. The MassHealth representative testified that this ADL was modified because the requested time of 30 minutes per-episode is longer than ordinarily required to perform the task on someone with Appellant's physical needs. The PCA is not reimbursed for cleaning the wound or assessing the wound, as such tasks are beyond the scope of a PCA; rather it is solely for the PCA to put the dressing on the wound.

Appellant responded that this task takes the PCA at least 30 minutes and sometimes longer for each wound care episode. Typically, the PCA will perform the dressing change after the shower. She is brought to her bed, rolled over; and any clothing is removed so the wounds can be accessible and looked at. Her wounds are extremely fragile and can break overnight. She has a nurse that will come in to monitor and assess the wound; the nurse is also responsible for cleaning the wound if open. However, now that the wounds have healed, she relies on the PCA to simply look if there have been any changes or openings to the wound, as Appellant is unable

to perform this task herself. The PCA does not “assess” the wound, but rather can see if there is a need to contact the nurse for further assessment. In addition, the nurse recommended that the PCA apply saline on the wound before each dressing. Once this is done, a new dressing is applied. The PCA must also dispose of the old dressings and/or supplies used to apply the new dressing.

Appellant’s social worker testified that for someone like Appellant, who is bedbound, wound care is the most essential aspect of her care. Appellant has a history of wound infections, resulting in hospitalizations. She must be given adequate attention in this area. The fact that her wounds have finally begun to heal is a testament to the care and attention her PCAs have given to this aspect of her care. Wound maintenance is critical to Appellant’s health and well-being and cannot be rushed.

Equipment maintenance

Next the parties addressed the modification made to the instrumental activity of daily living (IADL) of equipment maintenance. Appellant, through her PCM agency, requested 90 minutes per week for the PCA to assist in maintaining her wheelchair and “other” medical equipment. See id. at 26. MassHealth reduced the time to 40 minutes per week. According to the MassHealth representative, MassHealth typically allows a maximum of 35 minutes per week for wheelchair maintenance; here they approved 40 minutes. The PCM agency did not specify the “other” equipment that needed to be maintained; therefore, MassHealth did not approve the full amount of time requested.¹

Appellant testified that she previously had the help of her father to maintain her equipment and environmental aids. Since his passing, she relies entirely on the PCAs to help with this aspect of her care. In addition to the wheelchair, Appellant has a Hoyer lift that requires tending to. The Hoyer lift must be charged and plugged in; it requires daily wiping down; and there is a pad that must be washed at least once a week. She also has a shower chair that needs to be cleaned.

In response, MassHealth stated that time cleaning the Hoyer lift and shower chair would be included under the IADLs of laundry and housekeeping, which MassHealth approved in full. Additionally, plugging in and wiping down the Hoyer lift does not warrant time for equipment maintenance.

¹ The parties also discussed Appellant’s need for PCA assistance with “environmental aids,” including setting up the iPad, telephone, and computer systems to ensure Appellant’s safety and ability to communicate as she lives alone and is bedbound. See Exh. 4, p. 19. MassHealth clarified that the time requested for this task was submitted under a separate category of “other healthcare needs” and was approved in full by MassHealth at 15x1x7. Appellant expressed the 15 minutes was insufficient daily for environmental aids; however, MassHealth explained that Appellant could address this issue via a PCA adjustment request through her PCM agency, given that the time was approved in full.

Under the requests for housekeeping and laundry, the PCM agency noted that Appellant produces a large volume of laundry and that due to her being bedbound she is dependent for all laundry and housekeeping tasks. See id. at 24.

In conclusion, Appellant noted that for the passed four years she has had 79 hours per week of PCA services. Every year, MassHealth has been trying to reduce the hours. She has a progressive disease that only gets worse. She is significantly limited in her ability to contribute to her care. In addition, she has lost an in-home support of her father. She does not understand why MassHealth continues to reduce her hours despite needing more help.

Findings of Fact

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

1. Appellant is over the age of 65 and has diagnoses of multiple sclerosis, spastic quadriplegia, depression, anxiety, chronic UTIs, and chronic constipation.
2. Appellant is non-ambulatory, has no function in her arms or legs, has contracted hands and fingers, and has been living independently since the death of her father in the summer.
3. Following a re-evaluation assessment, Appellant's PCM agency sent MassHealth a PA request on behalf of Appellant seeking 78 hours and 15 minutes per-week and 2 hours per-night of PCA services beginning December 1, 2021 through November 30, 2022.
4. On November 18, 2021, MassHealth modified her PA request by approving 72 hours and 45 minutes per week of day/evening PCA services and approving the two nighttime PCA services per night, with modifications to the requests for (1) wound care and (2) equipment maintenance.

Wound Care

5. Under the ADL category of "other healthcare needs," Appellant's PCM agency requested 30 minutes, twice daily, seven days-per week (30x2x7) for a PCA to assist in providing wound care, including applying dry pad dressings to both sides of the buttocks and to protect skin integrity.
6. Appellant has healing wounds on the right and left sides of her buttocks.
7. MassHealth modified the requested time for wound care to 10 minutes twice daily, seven days per week (10x2x7).

8. For each episode the PCA has to turn Appellant over, remove any clothing and old dressings, apply saline on the wounds (as suggested by the nurse), apply a new dressing to each wound, and dispose of any materials used.
9. Appellant has a nurse that is responsible for assessing and cleaning the wound, if open.

Equipment maintenance

10. Appellant, through her PCM agency, requested 90 minutes per week for the PCA to assist in maintaining her wheelchair and “other” medical equipment.
11. MassHealth reduced the time to 40 minutes per week.
12. Appellant lives alone and relies entirely on the PCAs to assist in equipment maintenance.
13. In addition to her wheelchair, Appellant has a Hoyer lift that must be charged, plugged, cleaned, and washed (the pad has to be laundered); as well as a shower chair that requires cleaning.

Analysis and Conclusions of Law

MassHealth will pay for personal care attendant (PCA) services to eligible members who can appropriately be cared for in the home, so long as the following conditions are met:² 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

² 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.

available to the member through sources described in 130 CMR 450.317(C), 503.007, or 517.007.

See 130 CMR 450.204(A).

Medically necessary services must also “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 assistance with his activities of daily living (ADLs) and Instrumental Activities of Daily Living (IADLs) to meet her health care needs. MassHealth regulations provide the following description of ADLs under the PCA program:

(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.

In addition, MassHealth reimburses for PCA assistance with certain IADLs. IADLs are tasks that are “instrumental to the care of the member’s health and are performed by a PCA, such as meal preparation and clean-up, housekeeping, laundry, shopping, maintenance of medical equipment, transportation to medical providers, and completion of paperwork required for the member to receive PCA services.” 130 CMR 422.402. Specifically, MassHealth covers

assisting members with special needs, including the care and maintenance of wheelchairs and adaptive devices.” See 130 CMR 422.410(B)(4)(a). In determining the amount of time it takes the PCA to physically assist a member with an IADL, MassHealth requires the PCM agency to consider the presence of live-in family member’s responsible for tasks they would perform themselves and would include the member, such as laundry, meal preparation, and shopping. See 130 CMR 422.410(C). MassHealth will also consider individual circumstances when determining the amount of physical assistance, a member requires for IADLs. Id.

With respect to both ADLs and IADLs, MassHealth will cover the “activity time performed by a PCA in providing assistance with the [tasks].” 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).

Appellant met her burden in demonstrating that she requires 30 minutes twice daily of PCA assistance with wound care (30x2x7). For this modification, MassHealth reduced the time per-episode to 10 minutes each (10x2x7). The evidence presented at hearing indicates that Appellant has a history of developing wound infections and currently has two healing wounds on the right and left sides of her buttocks. Wound care involves multiple steps as the PCA must gather the required materials, position Appellant correctly on the bed, remove any clothes or existing dressings, ensure no new openings have occurred,³ apply saline, carefully place the new dressing over each wound, and dispose of materials appropriately. Appellant’s social worker persuasively testified that Appellant’s wounds have finally begun to heal because of the PCA’s diligence in taking adequate time to attend to her wound care, and this is a step that cannot be rushed. Accordingly, the requested time for wound care is medically necessary.

In addition, Appellant successfully demonstrated that she requires 90 minutes per-week as requested for equipment maintenance. MassHealth approved 40 minutes for wheelchair maintenance but did not allow any additional time for “other” equipment maintenance. At hearing, Appellant explained that she has other medical equipment including a Hoyer lift and a shower chair that need to be cleaned and tended to. The Hoyer lift must be plugged in and charged, wiped down, and the padding must be laundered. The shower chair must be cleaned as well. Appellant lives by herself and is bedbound. There is no one other than the PCA who can ensure her medical equipment is maintained and cared for on a routine basis. Based on the evidence, the additional requested time of 50 minutes per-week, or 7 minutes per-day, is reasonable for a PCA to assist in tending to these tasks. Although Appellant’s separate requests for laundry and housekeeping were approved in full, there is nothing in the PA request to suggest that the time approved encompassed these additional equipment maintenance tasks. For these

³ Appellant sufficiently demonstrated that such assistance did not amount to a clinical wound “assessment” which would be beyond the scope of a PCA’s duties. Appellant has a visiting nurse who provides the actual wound assessment and wound cleaning, if needed. However, because Appellant is unable to visibly check the wounds – which are fragile and break easily and often - she relies on the PCA to inform her of any visual changes so that she can notify the nurse accordingly.

reasons, Appellant met her burden in establishing 90 minutes per-week is medically necessary for PCA assistance with equipment maintenance.

Based on the foregoing, this appeal is APPROVED.

Order for MassHealth

For the PA period beginning December 1, 2021 and ending November 30, 2022, approve the Appellant's prior authorization request for PCA services in-full, including the time requested for PCA assistance with other healthcare needs/wound care (30x2x7) and equipment maintenance (90x1).

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.

Casey Groff
Hearing Officer
Board of Hearings

cc:

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

[REDACTED]