

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Approved in part; Dismissed in part	<b>Appeal Number:</b>	2200521
<b>Decision Date:</b>	3/29/2022	<b>Hearing Date:</b>	02/15/2022
<b>Hearing Officer:</b>	Alexandra Shube		

**Appearance for Appellant:**




**Appearance for MassHealth:**

*Via telephone:*  
Donna Burns, RN



*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; Dismissed in part	<b>Issue:</b>	Prior Authorization – PCA
<b>Decision Date:</b>	3/29/2022	<b>Hearing Date:</b>	02/15/2022
<b>MassHealth's Rep.:</b>	Donna Burns, RN	<b>Appellant's Rep.:</b>	
<b>Hearing Location:</b>	Quincy Harbor South	<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 29, 2021, MassHealth modified the appellant's prior authorization request for personal care attendant (PCA) services (Exhibit 1). The appellant filed this appeal in a timely manner on January 21, 2022 (see 130 CMR 610.015(B) and Exhibit 2). Modification and/or denial of PCA hours is valid grounds for appeal (see 130 CMR 610.032).

## Action Taken by MassHealth

MassHealth modified the appellant's prior authorization request for PCA services.

## Issue

The appeal issue is whether MassHealth was correct in modifying the appellant's prior authorization request for PCA services.

## Summary of Evidence

The MassHealth representative appeared via telephone and identified herself as a registered nurse and clinical appeals reviewer. She testified that the documentation submitted showed that the appellant was a minor child with a primary diagnosis of global developmental delay. Relevant medical history showed that the appellant also has ADHD, general anxiety disorder, chronic lung disease, asthma, seizure disorder, history of hypoglycemia, and was recently diagnosed with Graves disease. He is G-tube dependent due to poor oral intake.

The appellant was represented at hearing via telephone by his mother and a representative from Boston Center for Independent Living (BCIL).

The MassHealth representative testified that the appellant's personal care management (PCM) agency, BCIL, submitted a prior authorization request for PCA services on November 28, 2021, requesting 18 hours and 0 minutes of day/evening hours per week and 0 nighttime hours for dates of service of December 29, 2021 through December 28, 2022. MassHealth modified the request to 10 hours and 45 minutes of day/evening hours per week and 0 nighttime hours.

At hearing, the parties were able to resolve the disputes related to PCA assistance with the following activities of daily living (ADLs): bathing<sup>1</sup> and toileting – bowel care<sup>2</sup>. PCA assistance with the ADL of other healthcare need – G-tube feeding remain at issue.

### **Other Healthcare Needs – G-tube feeding**

The appellant requested 10 minutes, 6 times per day, 7 days per week for G-tube feedings. MassHealth modified the request to 10 minutes, 1 time per day, 7 days per week.

The MassHealth representative testified that time for eating (feeding the appellant by mouth) was approved fully as requested. She explained that MassHealth will pay for the PCA to assist with the primary source of nutrition. If the appellant is getting supplemental G-tube feedings, MassHealth will not approve PCA time for all six G-tube feedings when it appears the appellant is getting most food by mouth.

The appellant's mother explained that the appellant just passed his swallowing test and eats very slowly. Per the doctor's instructions, at every meal they set a timer for 30 minutes while they slowly feed him by mouth. If they did not set a timer, a meal could take 2 hours due to how slowly he eats. After 30 minutes, the appellant has not consumed enough nutrition by mouth and he gets a G-tube feed after every meal. He has six meals a day and will only eat a snack at school because he does not let anyone touch him there. His G-tube feedings are at 6:00AM, 8:30AM, 2:45PM, 5/5:30PM, 7:30PM, 9:30PM, 11:30PM, and 2:30AM. Due to Graves disease, he digests very quickly. As such, he needs the G-tube feedings every 2-3 hours (more than the six times per a day requested) to avoid

---

<sup>1</sup> Bathing was fully restored as requested to 23 minutes, 1 time per day, 7 days per week.

<sup>2</sup> Toileting for bowel care was modified to 8 minutes, 2 times per day, 7 days per week.

hypoglycemia, passing out, or having seizures. The appellant's mother also noted that his skin is so sensitive that there is also a lot of time spent cleaning the G-tube area, which leaks because he is so small.

MassHealth responded that skin care/cleaning of the G-tube area was not requested. There was nothing in the prior authorization request about ostomy care. She also noted that on page 46 of the prior authorization request, the PCM states "due to poor PO intake, child is given G-tube feedings to supplement."

## **Findings of Fact**

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

1. The appellant is a minor MassHealth member with a primary diagnosis of global developmental delay. Relevant medical history shows that the appellant also has ADHD, general anxiety disorder, chronic lung disease, asthma, seizure disorder, history of hypoglycemia, and was recently diagnosed with Graves disease. He is G-tube dependent due to poor oral intake. (Testimony and Exhibit 4).
2. MassHealth received a prior authorization request for PCA services on November 28, 2021 requesting 18 hours and 0 minutes of day/evening hours per week and 0 nighttime hours for dates of service of December 29, 2021 through December 28, 2022 (Testimony and Exhibit 4).
3. MassHealth modified the request to 10 hours and 45 minutes of day/evening hours per week and 0 nighttime hours (Testimony and Exhibit 4).
4. At hearings, parties were able to resolve disputes related to PCA assistance with the following ADLs: bathing and toileting – bowel care (Testimony).
5. The appellant seeks time for PCA assistance with other healthcare needs – G-tube feedings as follows: 10 minutes, 6 times per day, 7 days per week (Testimony and Exhibit 4).
6. MassHealth modified the request to 10 minutes, 1 time per day, 7 days per week (Testimony and Exhibit 4).
7. The appellant requires G-tube feedings every 2-3 hours to avoid hypoglycemia, passing out, and seizures (Testimony).
8. Due to Graves disease, the appellant digests his food very quickly (Testimony).
9. Because he eats so slowly when fed by mouth, he does not get enough nutrition orally and receives a G-tube feedings after every meal (Testimony).

10. The appellant's G-tube feedings are at 6:00AM, 8:30AM, 2:45PM, 5/5:30PM, 7:30PM, 9:30PM, 11:30PM, and 2:30AM (Testimony).

## **Analysis and Conclusions of Law**

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 or grooming;
  - (d) dressing or undressing;
  - (e) range-of-motion exercises;
  - (f) eating; and
  - (g) toileting.
- (4) The Division has determined that the PCA services are medically necessary and has granted a prior authorization for PCA services.

See 130 CMR 422.403(C).

The requested services must also be medically necessary for the prior authorization to be approved. MassHealth 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 service is "medically necessary" if:

- 1) it is reasonably calculated to prevent, diagnose, prevent 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 Division. Services that are less costly to

the Division include, but are not limited to, health care reasonably known by the provider or identified by the Division 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.

(B) Medically necessary services must be of a quality that meets professionally recognized standards of health care, and must be substantiated by records including evidence of such medical necessity and quality. A provider must make those records, including medical records, available to the Division upon request. (See 42 U.S.C. 1396a(a)(30) and 42 CFR 440.230 and 440.260.)

(C) A provider's opinion or clinical determination that a service is not medically necessary does not constitute an action by the MassHealth agency.

See 130 CMR 450.204

Pursuant to 130 CMR 422.410(A), 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 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.

Pursuant to 130 CMR 422.410(B), 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 Division as being instrumental to the health care of the member.

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.

See 130 CMR 422.412.

The appeal is dismissed as to the following ADLs because at hearing the parties were able to resolve the disputes related to PCA assistance with bathing and toileting – bowel care.

Regarding the appellant's request for G-tube feedings, the appeal is approved for 10 minutes, 6 times per day, 7 days per week for PCA assistance with G-tube feedings. The appellant's mother credibly testified that the appellant's medical conditions require him to receive at least six G-tube feedings daily. Due to Graves disease, he digests very quickly. He needs the G-tube feedings every 2-3 hours to avoid hypoglycemia, passing out, or having seizures. His G-tube feedings are daily at 6:00AM, 8:30AM, 2:45PM, 5/5:30PM, 7:30PM, 9:30PM, 11:30PM, and 2:30AM. The appellant has sufficiently demonstrated that PCA assistance with G-tube feedings is medically necessary.

For these reasons, the appeal is approved in part and dismissed in part.

## **Order for MassHealth**

Approve 10 minutes, 6 times per day, 7 days per week for G-tube feedings. Implement agreements made at hearing for bathing and toileting – bowel care.

## 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.

---

Alexandra Shube  
Hearing Officer  
Board of Hearings

cc:

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

