

# Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2202796
<b>Decision Date:</b>	6/30/2022	<b>Hearing Date:</b>	05/20/2022
<b>Hearing Officer:</b>	Scott Bernard		

**Appearance for Appellant:**  
*Pro se via telephone*

**Appearance for MassHealth:**  
Cheryl Eastman RN *via telephone*



*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>	Denied	<b>Issue:</b>	Personal Care Attendant (PCA) Services
<b>Decision Date:</b>	6/30/2022	<b>Hearing Date:</b>	05/20/2022
<b>MassHealth's Rep.:</b>	Cheryl Eastman RN	<b>Appellant's Rep.:</b>	<i>Pro se</i>
<b>Hearing Location:</b>	Quincy Harbor South	<b>Aid Pending:</b>	Yes

## 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 March 28, 2022, MassHealth modified the appellant's prior authorization (PA) request for PCA services because MassHealth determined that the time requested for assistance with household services is longer than ordinarily required for someone with the appellant's physical needs and the documentation submitted on the appellant's behalf indicated that the requested services do not meet professionally recognized standards of health care. (See 130 CMR 450.204(B), 422.410(B)(1), and Exhibit (Ex.) 1). The appellant filed this appeal in a timely manner on April 11, 2022. (See 130 CMR 610.015(B) and Ex. 2). Modification of a PA request for PCA services is valid grounds for appeal (see 130 CMR 610.032).

## Action Taken by MassHealth

MassHealth modified the appellant's PA request for PCA services.

## Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 450.204(B) and 422.000 *et seq* in determining that the PA request for PCA services should be modified.

## Summary of Evidence

MassHealth was represented by a registered nurse who was a clinical appeals reviewer. The MassHealth

representative testified that the appellant was currently receiving aid pending this appeal in the amount of 18 hours and 15 minutes of day and evening PCA services.

The appellant is an individual under the age of 65 with a relevant medical history that included hypertension (HTN), chronic kidney disease (CKD), type 2 diabetes mellitus (DM), chronic heart failure, obstructive sleep apnea (OSA) requiring nightly use of a continuous positive airway pressure machine (CPAP), asthma, cardiovascular accident (CVA) with no residual effects and depression. (Ex. 4, pp. 8-9).

On March 19, 2022, the personal care management agency (PCM) submitted a PA request for PCA services on the appellant's behalf. (Ex. 4, pp. 4-6, 7-32). The PCM requested a total of 18 hours and 15 minutes of day and evening PCA services per week for one year. (Id.). In a determination dated March 28, 2022, MassHealth made modifications to the time requested for one activity of daily living (ADL) and one instrumental ADL (IADL) and approved 13 hours and 15 minutes of day and evening PCA services per week from April 8, 2022 through April 7, 2023. (Ex. 1; Ex. 4, pp. 4-6). The modifications were as follows:

1. Mobility

The MassHealth representative testified that the PCM requested five minutes, eight times per day, seven days a week for one person to physically assist the appellant with stairs. (Ex. 4, p. 10). In its submission to MassHealth, the PCM states that the appellant requires "Min[imum] assist up and down stairs for safety. Consumer states [she] has been weaker and slower moving since leaving rehab 7/2021. Uses a walker inside the house, states [she] has been needing assistance for safety/weakness." (Ex. 4, p. 11). In its determination, MassHealth did not approve any time for this ADL. (Ex. 1; Ex. 4, p. 5). The MassHealth representative stated that the reason for not approving any time was that the documentation submitted on the appellant's behalf indicated that this service did not meet professionally recognized standards of health care. (Ex. 1; Ex. 4, p. 5). The MassHealth representative pointed out that the documentation states that the appellant requires minimum assistance with this ADL. The appellant stated that she did not move up and down stairs a lot during the day. Her son and daughter, who live with her, will help with this. The appellant stated that she like someone to be present to help in case she fell. The appellant is looking for a single floor living space.

2. Housekeeping

The MassHealth representative testified that the PCM requested 60 minutes, one time per week. (Ex. 4, p. 25). The PCM comments that the appellant requires "Max (A) with housekeeping: clean all areas used, mop/vac, change linens, remove trash. Consumer unable d/t impaired reach, bend d/t obesity." (Id.). In its determination, MassHealth modified this to 45 minutes per week because the time requested was longer than required for someone with the appellant's physical needs. (Ex. 1; Ex. 4, p. 5). The MassHealth representative stated that the appellant lives with family members who are expected to assist with IADLs. The appellant did not offer any testimony concerning housekeeping despite being given an opportunity to do so.

## Findings of Fact

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

1. The appellant is an individual under the age of 65. (Ex. 4, p. 8).
2. The appellant's relevant medical history includes HTN, CKD, type 2 DM, chronic heart failure, OSA requiring nightly use of a CPAP, asthma, CVA with no residual effects, and depression. (Ex. 4, p. 9).
3. The appellant lives with members of her family. (Testimony of the appellant; Testimony of the MassHealth representative).
4. On March 19, 2022, the PCM submitted a PA request for PCA services on the appellant's behalf for 18 hours and 15 minutes of day and evening services per week for one year. (Ex. 4, pp. 4-6, 7-32).
5. In a determination dated March 28, 2022, MassHealth approved 13 hours and 15 minutes of day and evening services per week from April 8, 2022 through April 7, 2023. (Ex. 1; Ex. 4, pp. 4-6).
6. MassHealth modified the time requested for one ADL (mobility) and one IADL (housekeeping). (Ex. 1; Ex. 4, pp. 4-6).
7. In its submission, the PCM requested five minutes, eight times per day, seven days a week for one person to physically assist the appellant with stairs. (Ex. 4, p. 10).
8. The PCM states that the appellant requires "Min[imum] assist up and down stairs for safety. Consumer states [she] has been weaker and slower moving since leaving rehab 7/2021. Uses a walker inside the house, states [she] has been needing assistance for safety/weakness." (Ex. 4, p. 11).
9. In its determination, MassHealth did not approve any time for this ADL. (Ex. 1; Ex. 4, p. 5).
10. The appellant does not move up and down stairs frequently during the day. (Testimony of the appellant).
11. The appellant's son and daughter assist her moving up and down stairs. (Testimony of the appellant).
12. The appellant wants someone near her to help if she begins to fall. (Testimony of the appellant).
13. In its submission, the PCM requested 60 minutes per week of housekeeping services. (Ex. 4, p. 25).
14. The PCM comments that the appellant requires "Max (A) with housekeeping: clean all areas

used, mop/vac, change linens, remove trash. Consumer unable d/t impaired reach, bend d/t obesity.” (Ex. 4, p. 25).

15. MassHealth modified this to 45 minutes per week because the time requested was longer than required for someone with the appellant’s physical needs. (Ex. 1; Ex. 4, p. 5).

## **Analysis and Conclusions of Law**

The provider must request prior authorization reevaluation from the MassHealth agency as a prerequisite to continued payment for ongoing PCA services. (130 CMR 422.416). This must be done at least 21 calendar days before the expiration date of the current prior-authorization period to ensure continuation of PCA services. (130 CMR 422.416(C)). Prior authorization determines only the medical necessity of the authorized service and does not establish or waive any other prerequisites for payment such as member eligibility or utilization of other potential sources of health care (see 130 CMR 503.007 and 517.008). (130 CMR 422.416). MassHealth responds to reevaluation requests for prior authorization within 21 calendar days after a request for services. (130 CMR 422.416; 130 CMR 450.303(A)(5)).

Reevaluations must be conducted at least annually, accurately represent the member’s need for physical assistance with ADLs and IADLs and consider the member’s physical and cognitive conditions and resulting functional limitations to determine ability to benefit from PCA services. (130 CMR 422.422(D)). MassHealth covers activity time performed by a PCA in aiding with the ADLs and IADLs specified in the reevaluation, and as authorized by MassHealth. (130 CMR 422.411(A)).

ADLs include assistance with mobility, taking medications, bathing or grooming, dressing, passive range of motion exercises, eating, and toileting. (130 CMR 422.402; 130 CMR 422.410(A)). IADLs are specific activities that are instrumental to the care of the member's health and are performed by a PCA. (130 CMR 422.402). The regulations list several specific listed activities as IADLs, one of which is physically assisting with household management tasks that are incidental to the care of the member including housekeeping. (130 CMR 422.410(B)(1)). In determining the number of hours of physical assistance that a member requires for IADLs, the PCM must assume that when a member is living with family members, the family members will assist with most IADLs and that MassHealth will consider individual circumstances when determining the number of hours of physical assistance that a member requires for IADLs. (130 CMR 422.410(C)(1),(3)).

The appellant has not shown by a preponderance of the evidence that she required the time requested for mobility assistance for stairs or for housekeeping. The appellant requires minimum assistance with mobility and is able to move in the house with the assistance of a walker. The appellant admitted that she does not move up and down stairs with frequency and just needs someone to stand by and monitor her in case she begins to fall. The appellant also stated that her son and daughter can assist her. As for housekeeping, the appellant offered no testimony justifying the need for 60 minutes per week. The record shows that the appellant requires maximum assistance with housekeeping. The record also shows, however, that the appellant lives with family members who are required to assist with IADLs. It seems that MassHealth did acknowledge that the appellant still required a lot of assistance with housekeeping and approved 45 minutes per week. This seems

appropriate under the circumstances.

For the above stated reasons, the appeal is DENIED.

## **Order for MassHealth**

None.

## **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.

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Scott Bernard  
Hearing Officer  
Board of Hearings

cc:

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