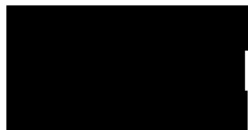


**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2203817
<b>Decision Date:</b>	7/5/2022	<b>Hearing Date:</b>	June 24, 2022
<b>Hearing Officer:</b>	Brook Padgett		

**Appellant Representative:**

Pro se

**MassHealth Representative:**

MaryJo Elliot, RN



*Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
MassHealth of Medical Assistance  
Board of Hearings  
100 Hancock Street, 6<sup>th</sup> floor  
Quincy, MA 02171*

# APPEAL DECISION

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	130 CMR 422.410 130 CMR 450.204
<b>Decision Date:</b>	7/5/2022	<b>Hearing Date:</b>	June 24, 2022
<b>MassHealth Rep.:</b>	M. Elliot, RN	<b>Appellant Rep.:</b>	Pro se
<b>Hearing Location:</b>	Quincy	<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

The appellant received a notice dated April 25, 2022 stating MassHealth has modified your request for personal care attendant (PCA) services from 45 day/evening hours and 2 hours per night to 35.15 day/evening hours and 2 hours per night. (130 CMR 422.403; 450.204; Exhibit 1).

The appellant filed this appeal timely on May 16, 2022. (130 CMR 610.015(B); Exhibit 2).

Modification of a request for prior approval is valid grounds for appeal. (130 CMR 610.032).

## Action Taken by MassHealth

MassHealth modified the appellant's request for 45 day/evening hours and 2 hours per night and approved 35.15 day/evening hours and 2 hours per night.

## Issue

Was the appellant's request for PCA assistance correctly modified?

## Summary of Evidence

MassHealth testified the appellant is a 70-year-old female with a medical diagnosis of diabetes, osteoarthritis, osteoporosis, history of esophageal and stomach cancer, high blood pressure, fibromyalgia, organic brain syndrome, heart attack, memory loss, and stroke. The appellant is unable to use her right arm, has multiple joint pain, poor balance, and is at risk for falls with limited standing tolerance of under 2 minutes. She is unable to bend, lift or carry and has neuropathy in both hands and feet. MassHealth approved PCA time of 35 hours and 15 minutes day/evening per week and 2 hours nighttime. MassHealth modified the appellant's request for: Mobility from 5 minutes, 6 times a day, 7 days a week, to 3 minutes, 6 times a day, 7 days a week, as the request for PCA services was longer than ordinarily required for someone with the appellant's physical needs. Passive Range of Motion (PROM) was denied in its entirety because the purpose for passive assistance is to promote circulation and the appellant is ambulatory, and providing a physical assist is contraindicated for someone in her condition. Instrumental Activities of Daily Living (IADL's) was modified from 90 minutes 7 days a week for meal prep to 45 minutes, 7 days a week; and 90 minutes, 1 time a week for laundry to 45 minutes, 1 time a week as the appellant lives with another consumer who also receives PCA services and therefore the appellant's needs are calculated on a shared basis. MassHealth submitted into evidence MassHealth PCA application, PCA Evaluation and Contract Summary Form. (Exhibit 4).

The appellant testified with the aid of an interpreter. The appellant was upset she had to proceed with the appeal as she wanted someone to represent her. She indicated she needed help and required PCA assistance. Despite numerous attempts to explain to the appellant she must let the interpreter interpret, she continually spoke over the other parties during the hearing. The appellant testified she kept to herself and did not ask any questions in her home and was unaware if anyone else who lived in the home also received PCA services.

MassHealth responded that the appellant lives with her grandson who also receives PCA services. The appellant acknowledged she lives with her grandson.

## Findings of Fact

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

1. The appellant is a 70-year-old female who is diagnosed diabetes, osteoarthritis, osteoporosis, history of esophageal and stomach cancer, high blood pressure, fibromyalgia, organic brain syndrome, heart attack, memory loss, and stroke. (Exhibit 4).
2. The appellant is unable to use her right arm, has multiple joint pain, poor balance, and is at risk for falls with limited standing tolerance of under 2 minutes. (Exhibit 4).

3. The appellant is unable to bend, lift or carry and neuropathy in both hands and feet. (Exhibit 4).
4. MassHealth approved PCA time of 35 hours and 15 minutes day/evening per week and 2 hours nighttime. (Exhibit 1).
5. MassHealth approved the appellant's requested PCA hours with the exception of time for assistance with mobility, PROM, laundry and meal preparation. (Exhibit 4)
6. MassHealth modified: Mobility from 5 minutes, 6 time a day, 7 days a week, to 3 minutes, 6 times a day, 7 days a week; PROM was denied in its entirety; and meal prep was modified from 90 minutes 7 days a week to 45 minutes, 7 days a week; and laundry from 90 minutes, 1 time a week to 45 minutes, 1 time a week. (Exhibit 4).
7. The appellant currently resides with another consumer who also receives PCA services (appellant's grandson). (Testimony).

## **Analysis and Conclusions of Law**

MassHealth is the payer of last resort and will pay for health care and related services only when no other source of payment is available, except as otherwise required by federal law.

The appellant requested 45 hours and 2 nighttime hours of PCA assistance. MassHealth approved all the appellant's requests except for PROM which was denied in its entirety and mobility, meal prep and laundry which were modified. MassHealth denied the appellant's request for PCA assistance with PROM as the appellant is ambulatory and does not require passive range of motion assistance as it is contraindicated for someone with her physical abilities. MassHealth modified the appellant's mobility request from 5 minutes, 6 times a day, 7 days a week, to 3 minutes, to 6 times a day, 7 days a week, because the appellant's request is longer than ordinarily required for someone with the appellant's physical needs. Lastly MassHealth modified the appellant's request for PCA assistance with her meal prep and laundry reducing it from 90 minutes 7 days a week for meal prep to 45 minutes, 7 days a week; and 90 minutes, 1 time a week for laundry to 45 minutes, 1 time a week, as the regulations require PCA members living with one or more other members receiving PCA services, the PCA time for homemaking tasks such as meal prep and laundry must be calculated on a shared basis.

The evidence indicates the appellant is ambulatory and therefore she is ineligible for PROM as this activity is for individuals who do not have the ability to move on their own and could be harmful for those who can actively move on their own.<sup>1</sup> Regarding mobility the evidence indicates the appellant

---

<sup>1</sup> 130 CMR 450.204: Medical Necessity: The 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

cannot stand for more than 2 minutes at a time, therefore the mobility request of 5 minutes, 6 times a day, 7 days a week is longer than ordinarily required for someone with the appellant's physical needs.<sup>2</sup> Finally, while the appellant testified, she was unaware that she was living with anyone else who received PCA services, she did acknowledge she lived with her grandson and MassHealth confirmed the appellant's grandson receives PCA services. As a result, MassHealth correctly reduced the requested time for meal prep and laundry as this is a shared service.<sup>3</sup>

In accordance with MassHealth regulations the appellant was approved for all requested PCA hours with the exception of assistance with PROM, mobility meal preparation, and laundry which were properly modified or denied by MassHealth. The appellant is not entitled to any PCA hours in excess of those approved by MassHealth. The action of MassHealth is upheld and the appeal is DENIED.

## Order for MassHealth

None.

---

to an inpatient facility where such service or admission is not medically necessary. **(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 MassHealth agency upon request. (See 42 U.S.C. 1396a(a)(30) and 42 CFR 440.230 and 440.260.) (Emphasis added).

<sup>2</sup> 130 CMR 422.410: Activities of Daily Living and Instrumental Activities of Daily Living (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...

<sup>3</sup> 130 CMR 422.410: Activities of Daily Living and Instrumental Activities of Daily Living (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 PCM agency must assume the following. (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.** (Emphasis added).

## **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.

---

Brook Padgett  
Hearing Officer  
Board of Hearings

cc: Optum