

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Dismissed	Appeal Number:	2204197
Decision Date:	10/5/2022	Hearing Date:	08/18/2022
Hearing Officer:	Scott Bernard		

Appearance for Appellant:




Appearance for MassHealth:

Donna Burns, R.N.



*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:	Dismissed	Issue:	Prior Authorization (PA) Personal Care Attendant (PCA) Services
Decision Date:	10/5/2022	Hearing Date:	08/18/2022
MassHealth's Rep.:	Donna Burns, R.N.	Appellant's Rep.:	
Hearing Location:	Quincy Harbor South		

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 May 4, 2022, MassHealth modified the appellant's prior authorization (PA) request for MassHealth PCA services. (See 130 CMR 450.204; 422.000 *et seq* and Exhibit (Ex.) 1; Ex. 9, pp. 3, 4-6). A person (on the appellant's behalf) filed this appeal in a timely manner on June 3, 2022. (See 130 CMR 610.015(B) and Ex. 2). Modification to a request for PCA services is valid grounds for appeal (see 130 CMR 610.032).

On June 7, 2022, the Board of Hearings sent the appellant a notice pursuant to 130 CMR 610.034 and 610.035 requesting that he submit one of three documents that would indicate that he assented to an appeal being filed on his behalf. (Ex. 3). On June 17, 2022, the appellant's attorney faxed the Board the necessary documents. (Ex. 4). In a notice dated June 27, 2022, the Board scheduled a hearing for July 27, 2022. (Ex. 5). On July 13, 2022, the appellant's attorney faxed the Board stating he did not get notice of the July 27, 2022 hearing, and requested a postponement. (Ex. 6). The Board rescheduled the appeal to the present date, sending notice on July 22, 2022. (Ex. 8).

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 and 422.000 *et seq*, in determining that the PA request for PCA services should be modified.

Summary of Evidence

The appellant is an individual over the age of 65 with Parkinson's Disease. (Ex. 9, pp. 8-9). The personal care management (PCM) agency submitted a PCA reevaluation requesting 83 hours of day and evening PCA services per week and two hours per night for one year. (Ex. 1; Ex. 9, pp. 4-7). MassHealth modified the time requested certain activities of daily living (ADLs) and instrumental activities of daily living (IADLs) and approved 69 hours, 30 minutes per week of day and evening PCA services and two hours per night. (Id.). The dates of service were from May 22, 2022 through May 21, 2023. (Id.).

At the hearing, the MassHealth representative immediately restored the time for the following to what was requested by the PCM agency:

1. Shampoo: 15 minutes, one time per day, six days per week. (Ex. 9, p. 14);
2. Oral Care: 15 minutes, one time per day, seven days per week. (Ex. 9, p. 15);
3. Eating (G Tube): 15 minutes, eight times per day, seven days per week. (Ex. 9, p. 18);
4. Physical assistance with medication administration: three minutes, two times per day, seven days per week and two minutes, one time per day, seven days per week. (Ex. 9, p. 20).

After testimony, the MassHealth representative and the appellant's representatives agreed to the following:

1. Shaving: eight minutes, one time per day, seven days per week. (Ex. 9, p. 15);
2. Application of moisturizer: eight minutes, one time per day, seven days per week. (Ex. 9, p. 16);
3. Dressing: 30 minutes, one time per day, seven days per week. (Ex. 9, p. 16);
4. Undressing: 20 minutes, one time per day, seven days per week. (Ex. 9, p. 17);
5. Chest percussion: five minutes, four times per day, seven days per week. (Ex. 9, pp. 21-22);
6. Laundry: 90 minutes per week. (Ex. 9, p. 25).

The MassHealth representative calculated that this would result in the appellant receiving 82 hours, 45 minutes of day and evening PCA services, which is slightly less than the 83 hours requested.

Findings of Fact

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

1. The appellant is an individual over the age of 65 with Parkinson's Disease. (Ex. 9, pp. 8-9).
2. The PCM agency submitted a PCA reevaluation requesting 83 hours of day and evening PCA services per week and two hours per night for one year. (Ex. 1; Ex. 9, pp. 4-7).
3. MassHealth modified the time requested certain ADLs and IADLs and approved 69 hours, 30 minutes per week of day and evening PCA services and two hours per night. (Ex. 1; Ex. 9, pp. 4-7).
4. The dates of service were from May 22, 2022 through May 21, 2023. (Id.).
5. MassHealth restored the time for the following to what was requested:
 - a. Shampoo: 15 minutes, one time per day, six days per week. (Ex. 9, p. 14);
 - b. Oral Care: 15 minutes, one time per day, seven days per week. (Ex. 9, p. 15);
 - c. Eating (G Tube): 15 minutes, eight times per day, seven days per week. (Ex. 9, p. 18);
 - d. Physical assistance with medication administration: three minutes, two times per day, seven days per week and two minutes, one time per day, seven days per week. (Ex. 9, p. 20).
6. After testimony, the MassHealth representative and the appellant's representatives agreed to the following:
 - a. Shaving: eight minutes, one time per day, seven days per week. (Ex. 9, p. 15);
 - b. Application of moisturizer: eight minutes, one time per day, seven days per week. (Ex. 9, p. 16);
 - c. Dressing: 30 minutes, one time per day, seven days per week. (Ex. 9, p. 16);
 - d. Undressing: 20 minutes, one time per day, seven days per week. (Ex. 9, p. 17);
 - e. Chest percussion: five minutes, four times per day, seven days per week. (Ex. 9, pp. 21-22);
 - f. Laundry: 90 minutes per week. (Ex. 9, p. 25).
7. Total time approved after the adjustments was 82 hours and 45 minutes of day and evening services. (Testimony of the MassHealth representative).

Analysis and Conclusions of Law

This appeal initially concerned modifications to the requested times for certain ADLs and IADLs. During the course of the hearing, MassHealth restored time for several ADLs. MassHealth also adjusted the modifications to the remainder, and the appellant's representatives agreed to these adjustments. MassHealth may make an adjustment in the matters at issue before or during an appeal period. (130 CMR 610.051(B)). If the parties' adjustment resolves one or more of the issues in dispute in favor of the appellant, the hearing officer, by written order, may dismiss the appeal in accordance with 130 CMR 610.035 as to all resolved issues, noting as the reason for such dismissal that the parties have reached agreement in favor of the appellant. (*Id.*). Since the parties reached an agreement in favor of the appellant concerning the modifications to ADLs/IADLs the appeal is DISMISSED.

Order for MassHealth

Issue a notice informing the appellant of the adjustments to the times for ADLs and IADLs to reflect what was agreed to at the hearing.

Implementation of this Decision

If this decision is not implemented within 30 days after the date 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.

Scott Bernard
Hearing Officer
Board of Hearings

cc:

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

[REDACTED]