

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Dismissed	<b>Appeal Number:</b>	2204895
<b>Decision Date:</b>	11/14/2022	<b>Hearing Date:</b>	August 19, 2022
<b>Hearing Officer:</b>	Brook Padgett	<b>Record Open:</b>	October 20, 2022

**Appellant Representative:**




**MassHealth Representative:**

John Excellent, LTSS



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

# APPEAL DECISION

<b>Appeal Decision:</b>	Dismissed	<b>Issue:</b>	130 CMR 610.051
<b>Decision Date:</b>	11/14/2022	<b>Hearing Date:</b>	August 19, 2022
<b>MassHealth Rep.:</b>	J. Excellent	<b>Appellant Rep.:</b>	
<b>Hearing Location:</b>	Quincy		

## 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 May 09, 2022 stating: It has come to the attention of MassHealth that you require a surrogate to help manage your PCA services, but as of the date of this letter you have not obtained a surrogate... [i]n accordance with 130 CMR 422.420(B)(1), 422.420(B)(2) and 422.420(B)(3), MassHealth is terminating your PCA services... (Exhibit 1). The Appellant filed this appeal timely on June 14, 2022. (130 CMR 610.015(B); Exhibit 2). Termination of Personal Care Attendant services (PCA) is valid grounds for appeal (130 CMR 610.032).

## Action Taken by MassHealth

MassHealth intends to terminate the Appellant's PCA services.

## Issue

Is MassHealth correct that the Appellant requires a surrogate and due to the failure to obtain a surrogate his PCA services should be terminated?

## Summary of Evidence

MassHealth testified the Appellant's provider STAVROS conducted an PCA assessment and determined the Appellant required a surrogate to manage his PCA services. The Appellant was notified of this determination and instructed to obtain a surrogate within 30 days or his PCA coverage would be terminated. The Appellant failed to sign the PCA surrogate form or obtain a surrogate so MassHealth initiated the termination of his PCA coverage. (Exhibit 4).

The Appellant and his representative indicated they would attempt to find an individual who could service as the Appellant's surrogate and MassHealth agreed to redetermine the Appellant's eligibility for PCA coverage.

The record remained open until September 19, 2022 to allow the Appellant and his representative to submit verification the Appellant obtained a surrogate and for the Appellant's Provider to schedule a new PCA evaluation. (Exhibit 5).

The Appellant provided a signed surrogate form and the Appellant's Provider to schedule a new PCA evaluation within the Record Open period. After review of the reevaluation performed on September 19, 2022, MassHealth approved the Appellant's PCA coverage from September 23, 2022 to September 23, 2023. (Exhibit 6).

## Findings of Fact

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

1. The Appellant is a recipient of MassHealth PCA services. (Exhibit 1).
2. On February 04, 2022 the Appellant's provider STAVROS informed the Appellant that after conducting a PCA assessment it was determined he required a surrogate to manage his PCA services. (Exhibit 4).
3. On May 09, 2022, the Appellant was notified by MassHealth he must obtain a PCA surrogate within 30 days or his PCA coverage would be terminated. (Exhibit 4).
4. On September 14, 2022, the Appellant signed the required PCA surrogate form. (Exhibit 8).
5. On September 19, 2022, the Appellant's Provider performed a new PCA assessment. (Exhibit 9).
6. After review of the Providers new assessment and surrogate form MassHealth reversed their prior decision and approved the Appellant for PCA services from September 12, 2022 to September 23, 2023. (Exhibit 10).

## **Analysis and Conclusions of Law**

On appeal the Appellant grieved the termination of his PCA services for failure to obtain a surrogate. Prior to the close of the hearing the Appellant agreed to submit verification of a surrogate and MassHealth agreed to redetermine the Appellant's PCA eligibility after his Provider completed a new assessment.

The Appellant signed the required surrogate form on September 14, 2022, and the Appellant's Provider completed a new assessment on September 19, 2022. After review of the additional evidence MassHealth approved the Appellant for PCA services from September 23, 2022 through September 23, 2023.

The Fair Hearing regulation concerning Adjustment Procedures and Mediation is set forth at 130 CMR 610.051. 130 CMR 610.051(B) states, in relevant part, as follows:

MassHealth may make an adjustment in the matters at issue before or during a hearing. If the parties agree that the adjustment resolves one or more of the issues in dispute, the hearing officer, by written order, will dismiss the appeal as to all resolved issues, noting as the reason for such dismissal that the parties have reached agreement.

MassHealth reversed its initial denial and approved the Appellant's request for PCA time. The MassHealth adjustment resolves all of the disputed issues in this case. The parties have reached agreement pursuant to 130 CMR 610.051(B), therefore this appeal is dismissed.

## **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, MassHealth of Medical Assistance, at the address on the first page of this decision.

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Brook Padgett  
Hearing Officer  
Board of Hearings

cc: MassHealth: PA Unit

