

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2205438
Decision Date:	9/30/2022	Hearing Date:	09/02/2022
Hearing Officer:	Casey Groff, Esq.		

Appearance for Appellant:




Appearance for MassHealth:

Cheryl Eastman, R.N., Clinical Appeals
Reviewer, Optum



*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:	Approved	Issue:	Personal Care Attendant Services
Decision Date:	9/30/2022	Hearing Date:	09/02/2022
MassHealth's Rep.:	Cheryl Eastman, R.N.	Appellant's Rep.:	
Hearing Location:	Board of Hearings (Remote)	Aid Pending:	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 May 4, 2022, MassHealth informed Appellant that it was modifying her request for personal care attendant (PCA) services. See 130 CMR 450.204.(A)(1) and Exhibit 1. Appellant filed a timely request for a fair hearing on July 21, 2022. See 130 CMR 610.015(B); Exhibit 2. Modification of a prior authorization request for PCA services is a valid basis for appeal. See 130 CMR 610.032.

Action Taken by MassHealth

MassHealth modified Appellant's request for PCA services.

Issue

The appeal issue is whether MassHealth was correct in modifying Appellant's request for PCA services.

Summary of Evidence

At the hearing, MassHealth was represented by a registered nurse/clinical appeals reviewer. Appellant appeared at the hearing with an advocate from her Personal Care Management (PCM) agency. All parties appeared via telephone.

Through testimony and documentary evidence, the MassHealth representative presented the following information: Appellant is a MassHealth member under the age of 65 with a primary diagnosis of progressive remissive multiple sclerosis. Appellant's medical history includes left leg paralysis, poor foot circulation, functional limitation of her right side, poor trunk control, poor fine motor control and grasp, pedal edema, contractures in her hips and knees, foot drop, osteoporosis, vision deficit, vertigo, depression/anxiety, incontinence of urine and stool, and anemia. See Exh. 4, pp. 7-8. Appellant ambulates exclusively through use of a wheelchair. Id.

On April, 26, 2022, Appellant's PCM agency submitted a prior authorization (PA) request to MassHealth, on Appellant's behalf, seeking personal care attendant (PCA) services in the amount of 50 hours and 45 minutes per-week of day/evening hours and two nighttime hours per night (14 hours per-week) for dates of service beginning May 4, 2022 through May 3, 2023. See Exh. 1. The requested time was based upon an April 6, 2022 re-evaluation the PCM conducted to assess Appellant's functional abilities. See Exh. 4, p. 7.

On May 4, 2022, MassHealth notified Appellant that it was modifying her PA request by approving 50 hours and 15 minutes per-week of day/evening PCA hours. See Exh. 1. MassHealth approved the nighttime PCA hours as requested. Id. The modification was based upon MassHealth's reduction to the time requested for the instrumental activity of daily living (IADL) of "equipment maintenance." Id.

In the PA request, Appellant's PCM agency requested 56 minutes per-week for physical assistance to clean and maintain Appellant's medical equipment, including her wheelchair and shower chair. See Exh. 4, p. 25. Appellant was categorized as being "totally dependent" in this area of care. Id. MassHealth modified the request by approving 35 minutes per-week for equipment maintenance. The MassHealth representative testified that 35 minutes is considered the "standard of care" for wheelchair maintenance and there was no explanation within the PA request to exceed this amount. Further, MassHealth did not allot any time for cleaning and maintenance of Appellant's shower chair, as this task was included in the time approved for "housekeeping."

In response, Appellant and her representative testified that 35 minutes is insufficient for the PCA to adequately clean and maintain her medical equipment, which consists of her five wheelchairs and shower chair. When asked about the number of wheelchairs possessed, Appellant explained that wheelchairs are poorly made, are constantly breaking down, and frequently not in a usable condition. Because she uses a wheelchair every day, maintenance and cleaning of the equipment is regularly required. For example, the wheels easily accrue dirt such that when it builds up, the wheelchair will not roll forward. This requires frequent scrubbing and cleaning of the wheels to

allow the wheelchair to move properly. Additionally, the screws in the armrests become worn from transferring her in and out of the wheelchair and this causes the arm pads to fall out. The seat cushion to her wheelchair is so stretched or “sunken-in” that it causes the feet pedals to hit the floor. This creates the need for the PCA to use towels and pads to accommodate the worn-out seat. When the wheelchair requires maintenance beyond what the PCA can provide, the PCA puts the wheelchair in the car and drives it to a specialized pharmacy for the repair. This takes a significant amount of time and there is no one else that can help Appellant with this task.

Appellant also testified that due to her incontinence, the PCA routinely cleans the seat cushion. Appellant explained that the wheelchair seats are not designed so that you can simply throw a soiled cushion into the laundry. Rather, they are specialized cushions made of rubberized foam and gel, which must be washed separately and carefully. It is not part of the typical laundry process. Appellant explained that the requested 57 minutes per-week was based on an average of eight minutes per-day needed for the PCA to ensure her equipment is properly maintained. Appellant explained her PCA spends much more than 8 minutes per-day on these tasks, but this is what they requested.

The MassHealth representative explained that cleaning the seat cushion would be included in the time approved for laundry and housekeeping, which were both approved at 75 minutes per-week, as requested. Additionally, any maintenance activities beyond cleaning or simple maintenance, is beyond the scope of a PCA’s responsibility. In these instances, the consumer should either send the equipment out for repair, or have the provider come to the home to make the necessary adjustments. Finally, in response to Appellant’s testimony that she did not have a reliable wheelchair, MassHealth noted that Appellant received a new wheelchair in 2021 which should have remedied some of the wheelchair issues Appellant noted.

In response, Appellant explained that providers will not come to her home for equipment maintenance. While she received a new wheelchair in 2021, the provider has yet to make the appropriate adjustments despite many requests, and therefore, she has been unable to use it. Appellant reiterated that she relies on her PCA to take the wheelchairs to the pharmacy for professional maintenance when needed and this takes time.

Findings of Fact

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

1. Appellant is a MassHealth member under the age of 65 with a primary diagnosis of progressive remissive multiple sclerosis.
2. Appellant’s medical history includes left leg paralysis, poor foot circulation, functional limitation of her right side, poor trunk control, poor fine motor control and grasp, pedal edema, contractures in her hips and knees, foot drop, osteoporosis, vision deficit, vertigo, depression/anxiety, incontinence of urine and stool, and anemia.

3. Appellant ambulates exclusively through use of a wheelchair.
4. On April, 26, 2022, Appellant's PCM agency submitted a PA request to MassHealth, on Appellant's behalf, seeking PCA services in the amount of 50 hours and 45 minutes per-week of day/evening hours and two nighttime hours per night (14 hours per-week) for dates of service beginning May 4, 2022 through May 3, 2023.
5. On May 4, 2022, MassHealth notified Appellant that it was modifying her PA request by approving 50 hours and 15 minutes per-week of day/evening PCA hours, and that this was due to a reduction in the time approved for assistance with "equipment maintenance."
6. Appellant's PCM agency requested 56 minutes per-week for assistance with equipment maintenance.
7. MassHealth modified the request by approving 35 minutes per-week, which it considers to be the "standard of care" for wheelchair equipment maintenance.
8. Appellant is "totally dependent" for PCA assistance in maintaining her equipment, which includes multiple wheelchairs and a shower chair.
9. Appellant's PCA assists in equipment maintenance in several ways, including cleaning the seat cushion after her frequent episodes of incontinence, adding padding to the seat to give better support, cleaning accumulated dirt in the wheels so the wheelchair moves properly, and taking the wheelchair to a specialized pharmacy for professional maintenance when needed.
10. It takes the PCA, on average, at least 8 minutes per-day, or 56 minutes per-week to perform tasks related to equipment maintenance.

Analysis and Conclusions of Law

MassHealth will pay for personal care attendant (PCA) services to eligible members who can appropriately be cared for in the home, so long as the following conditions are met:¹ First, the services must be "prescribed by a physician or nurse practitioner who is responsible for the member's...care." 130 CMR 422.403(C)(1). Additionally, the "member's disability [must be] permanent or chronic in nature and impair the member's functional ability to perform [at least two] ADLs ... without physical assistance." See 130 CMR 422.403(C)(2)-(3). Finally, MassHealth must determine that the requested services are medically necessary. See 130 CMR 422.403(4). A service is "medically necessary" if:

¹ PCA services are defined as "physical assistance with ADLs and IADLs provided to a member by a PCA in accordance with the member's authorized evaluation or reevaluation, service agreement, and 130 CMR 422.410." See 130 CMR 422.002.

(1) it is reasonably calculated to prevent, diagnose, prevent the 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 MassHealth agency. Services that are less costly to the MassHealth agency include, but are not limited to, health care reasonably known by the provider, or identified by the MassHealth agency 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.

See 130 CMR 450.204(A).

Medically necessary services must also “be of a quality that meets professionally recognized standards of health care and must be substantiated by the record including evidence of such medical necessity and quality.” 130 CMR 450.204(B).

Here, there is no dispute that Appellant meets all the pre-requisites to qualify for PCA services. MassHealth approved all the time requested for each activity of daily living (ADL) and instrumental activity of daily living (IADL), except for the IADL of “equipment maintenance.” Therefore, the only issue on appeal is whether MassHealth allotted sufficient time, in accordance with program regulations, for Appellant’s PCA to maintain her medical equipment, to meet her care needs.

IADLs are tasks that are “instrumental to the care of the member’s health and are performed by a PCA, such as meal preparation and clean-up, housekeeping, laundry, shopping, maintenance of medical equipment, transportation to medical providers, and completion of paperwork required for the member to receive PCA services.” 130 CMR 422.402. Equipment maintenance involves “assisting members with special needs, including the care and maintenance of wheelchairs and adaptive devices.” See 130 CMR 422.410(B)(4)(a). In determining the amount of time it takes the PCA to physically assist a member with an IADL, MassHealth requires the PCM agency to consider the presence of live-in family member’s responsible for tasks they would perform themselves and would include the member, such as laundry, meal preparation, and shopping. See 130 CMR 422.410(C). MassHealth will also consider individual circumstances when determining the amount of physical assistance, a member requires for IADLs. Id. Finally, MassHealth covers the “activity time performed by a PCA in providing assistance with the [ADLs or IADLs].” 130 CMR 422.411.

Under the IADL category of equipment maintenance, Appellant requested 56 minutes per-week (amounting to 8 minutes per day) for PCA assistance with maintaining and cleaning her multiple wheelchairs and shower chair. MassHealth modified the request by approving 35 minutes per-

week (amounting to 5 minutes daily). According to MassHealth, the modified time is consistent with professional standards of care for wheelchair maintenance. At hearing, Appellant provided credible testimony regarding the numerous time-consuming tasks the PCA must perform for Appellant to have daily access to a wheelchair that is usable and sanitary. Such tasks include adding necessary padding to the seat, removing built-up dirt from the wheels, and cleaning the specialized seat cushion given Appellant's frequent episodes of incontinence. Appellant demonstrated that both the wheelchair seat cushion and her shower chair are specialized pieces of medical equipment that are cleaned and maintained separately from standard housekeeping and laundry tasks. Accordingly, these individual tasks should be considered as part of the total time approved under "equipment maintenance." In consideration of Appellant's "individual circumstances" the request of 56 minutes per-week is appropriate and necessary to meet Appellant's care needs.

Based on the foregoing, this appeal is APPROVED.

Order for MassHealth

For the PA period beginning May 4, 2022 through May 3, 2023, approve the Appellant's prior authorization request for PCA services in-full, including the time requested for equipment maintenance (56x1).

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.

Casey Groff, Esq.
Hearing Officer
Board of Hearings

cc:

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

Appellant Representative: [REDACTED]