

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved in part; Dismissed in part	Appeal Number:	2205611
Decision Date:	10/18/2022	Hearing Date:	09/01/2022
Hearing Officer:	Scott Bernard		

Appearance for Appellant:
Pro se via telephone

Appearance for MassHealth:
Mary-Jo Elliott, R.N. *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

Appeal Decision:	Approved in part; Dismissed in part	Issue:	Prior Authorization (PA) Personal Care Assistant (PCA) Services
Decision Date:	10/18/2022	Hearing Date:	09/01/2022
MassHealth's Rep.:	Mary-Jo Elliott, R.N.	Appellant's Rep.:	<i>Pro se</i>
Hearing Location:	Quincy Harbor South	Aid Pending:	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 July 13, 2022, MassHealth modified the appellant's PA request for PCA services. (See 130 CMR 422.000 *et seq*; 450.204; Exhibit (Ex.) 1; Ex. 4, pp. 4-6). The appellant filed this appeal in a timely manner on July 26, 2022. (See 130 CMR 610.015(B); Ex. 2). Modification to a PA request 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 422.000 *et seq* and 450.204, in modifying the PA request.

Summary of Evidence

The MassHealth representative stated that she was a registered nurse and clinical appeals reviewer for PCA. The appellant is an individual over the age of 65 with a relevant medical history of cancer of the larynx status post chemotherapy and radiation, chronic neck pain, limited upper extremity range of motion, generalized weakness, stoma for speech, requiring frequent suctioning, oxygen as

needed, pureed diet with Boost supplements, cataracts, blind left eye, peripheral neuropathy, which the appellant reported had gotten worse over the previous year. (Ex. 4, pp. 7-8). The appellant, through the Personal Care Management Agency (the PCM agency) submitted a reevaluation PA request for PCA services. (Ex. 4, pp. 7-34). The appellant requested 36 hours of day and evening PCA services per week and two hours per night for one year. (Ex. 1; Ex. 4, pp. 4-6, 7-34). In the notice date July 13, 2022, MassHealth modified this to 32 hours, 45 minutes per week of day and evening PCA services and two hours per night. (Ex. 1; Ex. 4, pp. 4-6). The dates of services were from August 21, 2022 through August 20, 2023. (Ex. 1; Ex. 4, pp. 4-6). Specifically, MassHealth made modifications to the time requested for Tracheostomy Care, an activity of daily living (ADL), and medical transportation, an instrumental activity of daily living (IADL). (Ex. 1; Ex. 4, pp. 4-6).

1. Tracheostomy Care

The PCM agency described this ADL as providing assistance to suction the appellant's stoma, clean the cannula, and change the tape. (Ex. 4, p. 19). The PCM agency requested four minutes, eight times per day, seven days per week during the day and evening and four minutes, four times per night. (Ex. 4, p. 18). MassHealth modified this to five minutes per day with no nighttime. (Ex. 1; Ex. 4, pp. 4-6). The reason MassHealth modified this ADL were that the time requested did not meet professionally recognized standards of care. (Ex. 1; Ex. 4, pp. 4-6).

The MassHealth representative asked the appellant how frequently during the day did her PC suction the stoma. The MassHealth representative emphasized that the four minutes requested by the PCM agency included other tasks. The appellant responded by stated that it depends. She stated that her neck was so small that if she stood up the PCA had to do it. And if the appellant sat and leaned back the stoma would fill up a lot. The appellant stated that she was getting a lot of secretions building up in the cannula. The appellant stated that at night she can only lay down for so long and sleep because the secretions will build up in her stoma. The appellant agreed that it would take less than four minutes to suction the stoma. The appellant stated that the PCA also cleaned the cannula and reapplied tape. Based on this, the MassHealth representative was willing to offer three minutes, eight times per day, seven days per week during the day and evening, and three minutes, four times per night. The MassHealth representative also recommended that the appellant speak to the doctor overseeing the stoma because the amount of suctioning indicated that there was an underlying problem. The appellant did not know whether to take the time offered by the MassHealth representative.

2. Medical Transport

The PCM agency requested 11 minutes per week (averaged) for PCA assistance during transportation to and from medical appointments. (Ex. 4, p. 25). MassHealth modified this to four minutes per week for transfers only. (Ex. 1; Ex. 4, pp. 4-6). MassHealth asserted that the services requested were social services, which are not covered through the PCA program. (Ex. 1; Ex. 4, pp. 4-6). The MassHealth representative stated that the appellant is reliant upon public transportation for travel to her doctors. The MassHealth representative determined, however, that the PCA did provide more than nominal assistance during transportation and therefore restored the 11 minutes per week 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. (Ex. 4, p. 7).
2. The appellant has a relevant medical history of cancer of the larynx status post chemotherapy and radiation, chronic neck pain, limited upper extremity range of motion, generalized weakness, stoma for speech, requiring frequent suctioning, oxygen as needed, pureed diet with Boost supplements, cataracts, blind left eye, peripheral neuropathy, which the appellant reported had gotten worse over the previous year. (Ex. 4, pp. 7-8).
3. The appellant, through the PCM agency submitted a reevaluation PA request for PCA services. (Ex 4, pp. 7-34).
4. The appellant requested 36 hours of day and evening PCA services per week and two hours per night for one year. (Ex. 1; Ex. 4, pp. 4-6, 7-34).
5. In a notice dated July 13, 2022, MassHealth modified this to 32 hours, 45 minutes per week of day and evening PCA services and two hours per night. (Ex. 1; Ex. 4, pp. 4-6).
6. The dates of services were from August 21, 2022 through August 20, 2023. (Ex. 1; Ex. 4, pp. 4-6).
7. Specifically, MassHealth made modifications to the time requested for Tracheostomy Care, an ADL, and medical transportation, an IADL. (Ex. 1; Ex. 4, pp. 4-6).
8. The PCM agency described Tracheostomy Care as providing assistance in the suctioning of the appellant's stoma, cleaning the cannula, and changing the tape. (Ex. 4, p. 19).
9. The PCM agency requested four minutes, eight times per day, seven days per week during the day and evening and four minutes, four times per night. (Ex. 4, p. 18).
10. MassHealth modified this to five minutes per day with no time during the night. (Ex. 1; Ex. 4, pp. 4-6).
11. The reason MassHealth modified this ADL were that the time requested did not meet professionally recognized standards of care. (Ex. 1; Ex. 4, pp. 4-6).
12. It takes the PCA approximately one minute to suction the stoma. (Testimony of the appellant).
13. The PCA also cleans the cannula and reapplies tape. (Testimony of the appellant).
14. The MassHealth representative offered three minutes, eight times per day, seven days per week during the day and evening for tracheostomy care. (Testimony of the MassHealth representative).

15. The MassHealth representative offered three minutes, four times a night for tracheostomy care. (Testimony of the MassHealth representative).
16. The PCM agency requested 11 minutes per week (averaged) for PCA assistance during transportation to and from medical appointments. (Ex. 4, p. 25).
17. MassHealth modified this to four minutes per week for transfers only. (Ex. 1; Ex. 4, pp. 4-6).
18. MassHealth asserted that the services requested were social services, which are not covered through the PCA program. (Ex. 1; Ex. 4, pp. 4-6).
19. The MassHealth representative stated that the appellant is reliant upon public transportation for travel to her doctors. (Testimony of the MassHealth representative).
20. The MassHealth representative determined, however, that the PCA did provide more than nominal assistance during transportation and therefore restored the 11 minutes per week requested. (Testimony of the MassHealth representative).

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). 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 physical assistance with mobility, taking medications, bathing or grooming, passive range of motion exercises, eating, toileting, and dressing and undressing. (130 CMR 422.402; 130 CMR 422.410(A)).

Prior authorization determines the medical necessity of the authorized services. (130 CMR 422.416; 130 CMR 450.303). A service is medically necessary if 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 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 MassHealth. (130 CMR 450.204(A)). 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. (130 CMR 450.204(B)).

The appellant has not shown that tracheostomy care at the levels the PCM agency requested were medically necessary. The appellant did testify that the suctioning of her stoma was the primary reason for this time. The appellant also agreed, however, that it did not take four minutes to suction the stoma. The appellant did state that that in addition to suctioning, the PCA also cleaned the cannula and reapplied tape. The MassHealth representative thought that this was sufficient to show that the

appellant required more time for this activity than MassHealth allotted in its modification. The MassHealth representative offered three minutes per incident during the day/evening and at night. The appellant did not accept this. Considering the medical record, and the appellant's testimony, that amount seems reasonable under the circumstances and is supported by the appellant testimony.

For that reason, regarding tracheostomy care, this appeal is APPROVED IN PART.

MassHealth or the acting entity may make an adjustment in the matters at issue before or during an appeal period. 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. Regarding medical transport, the MassHealth representative restored the time requested for this IADL.

For that reason, regarding medical transportation, the appeal is DISMISSED IN PART.

Order for MassHealth

Send a new notice approving tracheostomy care at three minutes, eight times per day, seven day per week during the day and evening; and three minutes, four times per night. Medical transport should be approved at 11 minutes per week.

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 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.

Scott Bernard
Hearing Officer
Board of Hearings

cc:

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