

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision: Approved in part;
Dismissed in part

Appeal Number: 2205998

Decision Date: 9/29/2022

Hearing Date: 09/12/2022

Hearing Officer: Rebecca Brochstein

Appearances for Appellant:



Appearances for MassHealth:

Donna Burns, R.N.



*Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
Board of Hearings
100 Hancock Street
Quincy, MA 02171*

APPEAL DECISION

Appeal Decision:	Approved in part; Dismissed in part	Issue:	Prior Approval (PCA Services)
Decision Date:	9/29/2022	Hearing Date:	09/12/2022
MassHealth's Rep.:	Donna Burns, RN	Appellant's Rep.:	Appellant's Mother
Hearing Location:	Board of Hearings (Remote)		

Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapters 118E and 30A, and the rules and regulations promulgated thereunder.

Jurisdiction

Through a notice dated July 5, 2022, MassHealth modified the appellant's request for prior authorization for Personal Care Attendant (PCA) services by denying some of the time requested (Exhibit 1). The appellant filed this appeal in a timely manner on August 8, 2022, seeking approval of the denied time (130 CMR 610.015(B) and Exhibit 2). Modification of a request for PCA services is a valid basis for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth modified the appellant's request for PCA services by denying some of the time requested for certain tasks.

Issue

The appeal issue is whether the appellant has demonstrated that the time denied by MassHealth for certain PCA tasks is medically necessary.

Summary of Evidence

The MassHealth representative, a registered nurse, testified that the appellant is a minor child with diagnoses of autism and schizophrenia with psychosis. His other relevant medical history includes ADHD, epilepsy, depression, anxiety, hereditary angioedema, nocturnal enuresis, social pragmatic communication disorder, sensory processing disorder, Tourette's Syndrome, abdominal migraines, chronic constipation, and learning disabilities. See Exhibit 4 at 12-13.

On June 17, 2022, the appellant's PCA provider submitted a prior approval (PA) request and initial evaluation for PCA services. The provider requested PCA services in the amount of 2.25 day and evening hours per week, along with 14 nighttime hours per week, for the prior authorization period of July 5, 2022, to July 4, 2023. MassHealth modified the request by allowing a total of 1.45 day and evening hours per week, and by denying the nighttime hours. MassHealth modified the time requested for two tasks but reversed one of the modifications (for nighttime toileting) at hearing. The only remaining issue is the modification to the PCA time requested for assistance with laundry.

The appellant requested PCA assistance with laundry (during the day/evening hours) in the amount of 20 minutes per week. MassHealth denied the time requested for laundry because it determined this task is a parental responsibility.

The appellant's mother appeared at the hearing telephonically and testified on his behalf. She described the appellant's difficulty with nocturnal enuresis, which is caused in part by medications he takes for constipation. She stated that he wears absorbent products and has a Chux pad underneath him, but still soils his bedsheets almost every night. This contributes to the significant amount of laundry that must be done for him on a regular basis; she stated that the laundry "gets backed up" because of his complex medical and developmental needs. The mother testified that she is disabled and does not work outside the home, but that caring for the appellant is "more than a full-time job."

The mother submitted a letter from a nurse practitioner at the Boston Children's Hospital Department of Urology. It states that the appellant is a patient in the Voiding Improvement Program, and that he has diagnoses of "dysfunctional voiding, constipation, and nocturnal enuresis." See Exhibit 2.

Findings of Fact

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

1. The appellant is a minor child with diagnoses of autism and schizophrenia with psychosis.
2. The appellant's other medical history includes ADHD, epilepsy, depression, anxiety, hereditary angioedema, nocturnal enuresis, social pragmatic communication disorder, sensory processing disorder, Tourette's Syndrome, abdominal migraines, chronic constipation, and learning disabilities.

3. The appellant is a patient in the Voiding Improvement Program at Boston Children's Hospital, where he is treated for dysfunctional voiding, constipation, and nocturnal enuresis.
4. On June 17, 2022, the appellant's PCA agency submitted a prior approval request and initial evaluation for PCA services. The provider requested 2.25 day/evening hours per week, along with 14 nighttime hours per week, for the prior authorization period of July 5, 2022, to July 4, 2023.
5. MassHealth modified the request by allowing a total of 1.45 day/evening hours per week, and denying the nighttime hours.
6. MassHealth denied the time requested for laundry and nighttime toileting.
7. At hearing, MassHealth restored the time requested for nighttime toileting.
8. The appellant requested PCA time for assistance with laundry in the amount of 20 minutes per week.
9. MassHealth denied the request for PCA time with laundry on the basis that it is a parental responsibility.
10. The appellant takes medications that lead to nocturnal enuresis. He wears absorbent products and has a Chux pad underneath him when he goes to sleep, but he still soils his clothing and bedsheets almost every night.
11. The appellant's medical condition results in excess laundry needs.

Analysis and Conclusions of Law

Regulations concerning Personal Care Attendant (PCA) Services are found at 130 CMR 422.000, et seq. PCA services are physical assistance with activities of daily living (ADLs) and instrumental activities of daily living (IADLs), as described in 130 CMR 422.410. Pursuant to 130 CMR 422.403(C), MassHealth covers PCA services when (1) they are prescribed by a physician or a nurse practitioner who is responsible for the oversight of the member's health care; (2) the member's disability is permanent or chronic in nature and impairs the member's functional ability to perform ADLs and IADLs without physical assistance; (3) the member, as determined by the personal care agency, requires physical assistance with two or more of the ADLs as defined in 130 CMR 422.410(A); and (4) MassHealth has determined that the PCA services are medically necessary. ADLs and IADLs are addressed in 130 CMR 422.410, which provides as follows:

(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;
- (2) assistance with medications or other health-related needs: physically assisting a member to take medications prescribed by a physician that otherwise would be self-administered;
- (3) bathing or grooming: physically assisting a member with basic care such as bathing, personal hygiene, and grooming skills;
- (4) dressing or undressing: physically assisting a member to dress or undress;
- (5) passive range-of-motion exercises: physically assisting a member to perform range-of-motion exercises;
- (6) eating: physically assisting a member to eat. This can include assistance with tube-feeding and special nutritional and dietary needs; and
- (7) toileting: physically assisting a member with bowel and bladder needs.

(B) Instrumental Activities of Daily Living (IADLs). Instrumental activities of daily living include the following:

- (1) household services: physically assisting with household management tasks that are incidental to the care of the member, including laundry, shopping, and housekeeping;
- (2) meal preparation and clean-up: physically assisting a member to prepare meals;
- (3) transportation: accompanying the member to medical providers; and
- (4) special needs: assisting the member with:
 - (a) the care and maintenance of wheelchairs and adaptive devices;
 - (b) completing the paperwork required for receiving personal care services; and
 - (c) other special needs approved by MassHealth as being instrumental to the health care of the member.

(C) In determining the number of hours of physical assistance that a member requires under 130 CMR 422.410(B) for IADLs, the personal care agency must assume the following:

(1) When a member is living with family members, the family members will provide assistance with most IADLs. For example, routine laundry, housekeeping, shopping, and meal preparation and clean-up should include those needs of the member.

(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.

(3) MassHealth will consider individual circumstances when determining the number of hours of physical assistance that a member requires for IADLs.

In this case, the only MassHealth modification that remains in dispute is the time requested for laundry. MassHealth denied the full time requested (20 minutes per week) because it determined that laundry is a parental responsibility. However, the appellant's mother offered detailed evidence that demonstrates a need beyond what is typical for a child of his age. The appellant is under treatment at Boston Children's Hospital for dysfunctional voiding, constipation, and nocturnal enuresis. The mother testified credibly that he soils his nighttime clothing and bedsheets almost every night, leading to excess laundry on a regular basis. Under these circumstances, the appellant's need for an extra 20 minutes per week is fully supported by the evidence.

This appeal is approved as to the request for laundry and dismissed as to the modification for nighttime toileting (which MassHealth approved at hearing).

Order for MassHealth

Remove aid pending protection and approve the PA request dated June 17, 2022, in full.

Implementation of this Decision

If this decision is not implemented within 30 days after the date hereon, you should contact your MassHealth Enrollment Center. If you experience further problems with the implementation of this decision, you should report this in writing to the Director of the Board of Hearings, Office of Medicaid, at the address on the first page of this decision.

Rebecca Brochstein
Hearing Officer
Board of Hearings

cc: Optum