

# Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2206161
<b>Decision Date:</b>	10/19/2022	<b>Hearing Date:</b>	09/21/2022
<b>Hearing Officer:</b>	Christine Therrien		

**Appearance for Appellant:**  
Pro se

**Appearance for MassHealth/CCA:**  
Cassandra Horne, Appeals and Grievances  
Jeremiah Mancuso, Clinical Appeals and  
Grievances Manager  
Michelle Shephard, SCO/PCA Team Manager



*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

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	PCA
<b>Decision Date:</b>	10/19/2022	<b>Hearing Date:</b>	09/21/2022
<b>MassHealth/CCA Rep.:</b>	Cassandra Horne, Appeals and Grievances; Jeremiah Mancuso, Clinical Appeals and Grievances Manager; Michelle Shephard, SCO/PCA Team Manager	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	All parties appeared by telephone	<b>Aid Pending:</b>	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 7/12/22, MassHealth/CCA modified the appellant's Prior Approval (PA) for Personal Care Attendant (PCA) benefits because MassHealth/CCA determined the services were not medically necessary. (130 CMR 410.303, 130 CMR 422.410, 130 CMR 450.204 and Exhibit 1). The appellant filed this appeal in a timely manner on 8/16/22. (130 CMR 610.015(B) and Exhibit 2). Denial of assistance is valid grounds for appeal (130 CMR 610.032).

### Action Taken by MassHealth

MassHealth/CCA modified the appellant's request for PCA services.

### Issue

The issue is whether MassHealth/CCA was correct, pursuant to 130 CMR 422.410, 422.412, and 450.204, in modifying appellant's prior authorization request for PCA services.

## Summary of Evidence

The MassHealth/CCA representative testified a request for 19 hours and 15 minutes of day/evening hours per week and 2 nighttime hours per day of PCA services was received on behalf of the appellant. The MassHealth/CCA representative testified that the PA request was modified on 6/23/22 to 18 hours and 15 minutes<sup>1</sup> of day/evening hours per week and 2 nighttime hours per day because the time requested is not medically necessary. The appellant was [REDACTED] at the time of the PA with a primary diagnosis of Type II Diabetes. The MassHealth/CCA representative testified that MassHealth will only pay for a PCA to perform hands-on activities. The PA indicates the appellant requires hands-on assistance with transferring and toenail care. The PA requested 140 minutes per week for bathing and MassHealth/CCA modified this to 35 minutes because the documentation states the appellant is independent with bathing. The MassHealth/CCA representative stated that the PA may have included time for transfers in the request for bathing. The MassHealth/CCA representative stated that the PA may have included time for transfers in the request for bathing. The PA requested 70 minutes per week for grooming and MassHealth/CCA modified this to 10 minutes because the documentation states the appellant only requires hands on assistance with toe nail care. The PA requested 15 minutes a week for medication management. MassHealth/CCA modified this to 0 minutes because the documentation states the appellant is independent with medication management and Oxygen use. The MassHealth/CCA representative testified that the PA may have included transportation time to the pharmacy under medication management, but time was given for this in the transportation category.

The appellant testified that he requires assistance washing his back, lower limbs, and hair. The appellant also testified that the evaluator knew his abilities so why were his hours reduced?

## Findings of Fact

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

1. A PA request for 19 hours and 15 minutes of day/evening hours per week and 2 nighttime hours per day of PCA services was received on behalf of the appellant.
2. The PA request was modified on 6/23/22 to 18 hours and 15 minutes of day/evening hours per week and 2 nighttime hours per day because the time requested is not medically necessary.
3. The appellant was [REDACTED] at the time of the PA with a primary diagnosis of Type II Diabetes.
4. MassHealth will only pay for a PCA to perform hands-on activities.

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<sup>1</sup> There was an error in the notice which stated the requested time was modified to 17 hours and 15 minutes.

5. The PA indicates the appellant requires hands-on assistance with transferring and toenail care.
6. The PA requested 140 minutes per week for bathing and MassHealth/CCA modified this to 35 minutes because the documentation states the appellant is independent with bathing.
7. The PA requested 70 minutes per week for grooming and MassHealth/CCA modified this to 10 minutes because the documentation states the appellant only requires hands on assistance with toe nail care.
8. The PA requested 15 minutes a week for medication management. MassHealth/CCA modified this to 0 minutes because the documentation states the appellant is independent with medication management and Oxygen use.
9. MassHealth/CCA approved the requested time for transportation which includes time to go to the pharmacy.

## **Analysis and Conclusions of Law**

MassHealth covers personal care services provided to eligible MassHealth members who can be appropriately cared for in the home when all the following conditions are met:

- (1) The personal care services 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 following ADLs as defined in 130 CMR 422.410(A):
  - (a) mobility, including transfers;
  - (b) medications,
  - (c) bathing or grooming;
  - (d) dressing or undressing;
  - (e) range-of-motion exercises;
  - (f) eating; and
  - (g) toileting.
- (4) The Division has determined that the PCA services are medically necessary and has granted a prior authorization for PCA services.

See 130 CMR 422.403(C).

MassHealth will pay for PCA services provided to MassHealth members who can be appropriately cared for in the home (130 CMR 422.401 et seq.). The member must require physical assistance. The personal care agency determines the extent of the personal care services provided by a paid PCA (130

CMR 422.403). Personal care services consist of physical hands-on assistance with activities of daily living (ADLs) (130 CMR 422.410(A)).

422.410: Activities of Daily Living and Instrumental Activities of Daily Living

(A) Activities of Daily Living. 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.

The requested services must also be medically necessary for prior authorization to be approved. MassHealth will not pay a provider for services that are not medically necessary and may impose sanctions on a provider for providing or prescribing a service or for admitting a member to an inpatient facility where such service or admission is not medically necessary.

(A) A service is “medically necessary” if:

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

MassHealth/CCA approved the appellant's time requested for assistance with all except bathing, one part of grooming, and medication management. MassHealth/CCA modified the appellant's request for 140 minutes per week for bathing to 35 minutes per week because the documentation states the appellant is independent with this ADL therefore, he does not require hands-on assistance to bathe. Similarly, the documentation submitted does not support the appellant's need for 70 minutes a day

of hands on assistance for grooming therefore, MassHealth/CCA modified this request to 10 minutes a week for toenail care. And lastly, MassHealth/CCA modified the PA request of 15 minutes a week for medication management to zero because the documentation indicates the appellant is independent with taking his medication and his oxygen use. These modifications were made because they are not deemed medically necessary under the MassHealth regulations. For this reason, the appeal on the modifications is DENIED.

## **Order for MassHealth**

None.

## **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.

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Christine Therrien  
Hearing Officer  
Board of Hearings

cc:

MassHealth Representative: Commonwealth Care Alliance SCO, Attn: Cassandra Horne, 30 Winter Street, Boston, MA 02108