

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Numbers:	2207643
Decision Date:	12/1/2022	Hearing Date:	11/16/2022
Hearing Officer:	Sara E. McGrath		

Appearance for Appellant:



Appearances for MassHealth:

Donna Burns, RN



*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:	Denied	Issue:	Prior Authorization for PCA Services (Adjustment)
Decision Date:	12/1/2022	Hearing Date:	11/16/2022
MassHealth Rep:	Donna Burns, RN	Appellant's Rep:	Pro se
Hearing Location:	Board of Hearings (Remote)	Aid Pending:	No

Authority

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

Jurisdiction

Through notice dated August 24, 2022, MassHealth denied the appellant's request for an adjustment to her current authorization for personal care attendant (PCA) services (130 CMR 422.410; Exhibit 1). The appellant filed a timely appeal on October 13, 2022 (130 CMR 610.015(B)). The denial of a request for an adjustment to PCA services is a valid basis for appeal (130 CMR 610.032, 422.417(B)(2)).

Action Taken by MassHealth

MassHealth denied the appellant's request for an adjustment to her current authorization for PCA services.

Issue

The appeal issue is whether the appellant has demonstrated the medical necessity of the services that were denied.

Summary of Evidence

MassHealth was represented at the hearing by a registered nurse who testified by phone. She testified that the appellant is a female in her 60s whose provider, Tri-Valley, Inc., submitted a request for an adjustment to her current authorization for PCA services. The current authorization is for 9.75 day/evening hours and runs from July 27, 2022 through July 26, 2023. The appellant lives with her husband and has diagnoses of diabetes, chronic kidney disease, and skin cancer (Exhibit 3, p. 7). The appellant requires assistance due to fatigue and poor endurance (Exhibit 3, p. 7). On August 10, 2022, MassHealth received a prior authorization for an increase of 2.5 day/evening hours per week, as follows: 10 minutes per day for meal preparation, 35 minutes per week for housekeeping, and 40 minutes per week for shopping (Exhibit 3, pp. 9-10). MassHealth denied this request on the basis that when a member is living with family members, the family members are required to provide assistance with most instrumental activities of daily living (IADLs).¹

The appellant testified by phone and explained that she has many additional problems. She has new diagnosis of skin cancer and needs to immediately receive wound care from a nurse. She indicated that she feels that she needs 15 hours per week of PCA assistance. She stated that she needs to eat a more healthful diet. She noted that her husband takes her to all of her medical appointments.² She explained that her husband is able to shop for her, and is also able to complete all housekeeping tasks. She added that he is very neat.

Findings of Fact

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

1. The appellant is a female in her 60s with diagnoses of diabetes, chronic kidney disease, and skin cancer.
2. The appellant lives with her husband who cooks, cleans, and shops for the household.
3. MassHealth has authorized 9.75 hours per week of day/evening PCA services for the appellant for the PA period from July 27, 2022 through July 26, 2023.
4. On August 10, 2022, the appellant's provider submitted a request for an increase in PCA services in the amount of 2.5 day/evening hours per week; the provider requested the increase in the areas of meal preparation, housekeeping, and shopping.
5. On August 24, 2022, MassHealth denied the request.

¹ The MassHealth consultant noted that for the current PA period, some time has been authorized for PCA assistance with meal preparation (20 minutes per day). She stated that this time was authorized because of a notation that the spouse had been struggling with providing care.

² The MassHealth consultant clarified that time has been authorized for PCA assistance with transportation to medical appointments.

6. On October 13, 2022, the appellant filed a timely appeal with the Board of Hearings.

Analysis and Conclusions of Law

Regulations concerning PCA Services are found at 130 CMR 422.000, et seq. PCA services are physical assistance with ADLs and 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.

As set forth above, MassHealth denied the time requested for assistance with IADLs (meal preparation, housekeeping, and shopping) on the basis that the appellant's husband is responsible for completing these tasks. Under part (C)(1) above, when a member is living with family members, the family members provide assistance with most IADLs, including "routine laundry, housekeeping, shopping, and meal preparation and clean-up should include those needs of the member." In this case, the evidence suggests that the appellant's needs around these tasks are routine, and that the appellant's husband is currently completing these tasks (with some limited assistance with meal preparation). There is no evidence that the husband is experiencing any new difficulties that would

support the request for additional PCA time to assist with completing the appellant's IADLs. On this record, the appellant has not demonstrated that any additional PCA time is warranted.

The appeal 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.

Sara E. McGrath
Hearing Officer
Board of Hearings

cc: Optum