

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2208300
Decision Date:	1/5/2023	Hearing Date:	December 6, 2022
Hearing Officer:	Stanley M. Kallianidis		

Appellant Representative:

Pro Se

MassHealth Representative:

Donna Burns, RN



*Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
Board of Hearings
100 Hancock Street, 6th Floor
Quincy, MA 02171*

APPEAL DECISION

Appeal Decision:	Denied	Issue:	Medical necessity
Decision Date:	1/5/2023	Hearing Date:	December 6, 2022
MassHealth Rep.:	Donna Burns, RN		

Authority

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

Jurisdiction

On September 6, 2022, MassHealth modified the appellant's prior authorization request for personal care attendant (PCA) services because it determined that the request was not covered and/or medically necessary in all areas (see 130 CMR 422.410, 450.204 and Exhibit 1). The appellant filed this appeal in a timely manner on November 6, 2022 (see 130 CMR 610.015 and Exhibit 2). The denial of assistance is valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth modified the appellant's prior authorization request for 8.75 hours of PCA services to 7.5 hours.

Issue

Was MassHealth correct, pursuant to 130 CMR 422.410 and 450.204, in determining that the appellant's request was not covered by its PCA program and/or medically necessary in all the areas requested?

Summary of Evidence

The MassHealth representative testified that the appellant is a 61-year-old female diagnosed with diabetes mellitus, retinopathy, and depression. The appellant lives with her husband (Exhibit 3).

MassHealth modified the appellant's prior authorization request for 8.75 hours of PCA services to 7.5 hours (Exhibit 3).

The modified PCA activity of daily living (ADL) area was as follows: Mobility: 63 minutes per week (3x3x7) was modified to 21 minutes (1x3x7). The modified PCA instrumental activities of daily living (IADL) area was as follows: Housekeeping: 60 minutes per week was modified to 0 minutes (Exhibit 3).

The MassHealth representative testified that the appellant's request was modified in mobility because she walks independently with a rollator (a walker with wheels). Therefore, the request was modified from three minutes to one minute, three times daily. Her request for housekeeping was modified to 0 minutes because she lives with her husband, and when member is living with family, the family member is expected to assist with IADLs (Exhibit 3).

The appellant testified she needs the 8.75 hours of PCA time requested. She did not specifically address why she needed more than one minute to assist with mobility. With regard to the modification of her housekeeping time to 0 minutes, she testified that while her husband lives with her, he is unable to assist with this activity because he works full-time.

Findings of Fact

Based on a preponderance of the evidence, I find:

1. The appellant, a 61-year-old female diagnosed with diabetes mellitus, retinopathy, and depression, requested 8.75 hours of PCA services (Exhibit 3).
2. MassHealth modified the appellant's prior authorization request to 7.5 hours (Exhibit 3).
3. The appellant lives with her husband (Exhibit 3).
4. The appellant walks independently with a rollator (a walker with wheels) (Exhibit 3).

5. The modified PCA ADL area was as follows: Mobility: 63 minutes per week (3x3x7) was modified to 21 minutes (1x3x7). The modified PCA IADL area was as follows: Housekeeping: 60 minutes per week was modified to 0 minutes (Exhibit 3).

Analysis and Conclusions of Law

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

(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/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 the MassHealth agency as being instrumental to the health care of the member.

(C) Determining the Number of Hours of Physical Assistance. In determining the number of hours of physical assistance that a member requires under 130 CMR 422.410(B) for IADLs, the PCM 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) The MassHealth agency will consider individual circumstances when determining the number of hours of physical assistance that a member requires for IADLs.

A service is medically necessary if:

(1) it is reasonably calculated to prevent, diagnose, prevent the worsening of, alleviate, correct, or cure conditions in the recipient 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 MassHealth (130 CMR 450.204(A)).

In the instant case, the appellant, a 61-year-old female diagnosed with diabetes mellitus, retinopathy, and depression, requested 8.75 hours of PCA services. MassHealth modified the appellant's prior authorization request to 7.5 hours. The appellant walks independently with a rollator (a walker with wheels). She lives at home with her husband.

The modified PCA ADL area was as follows: Mobility: 63 minutes per week (3x3x7) was modified to 21 minutes (1x3x7). The modified PCA IADL area was as follows: Housekeeping: 60 minutes per week was modified to 0 minutes.

The issues at hand is whether or not the appellant's request for mobility was medically necessary as requested and whether or not time for housekeeping should be allowed given that the member lives with her husband.

I conclude that where the appellant ambulates independently with a rollator her request for 63 minutes of assistance with mobility is not medically necessary in accordance with 130 CMR 450.204. In accordance with 130 CMR 422.410, I further conclude that, where the appellant lives with her spouse, he is expected to assist with housekeeping and that MassHealth was therefore correct to deny the time requested for this task.

The appeal is therefore 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.

Stanley M. Kallianidis
Hearing Officer
Board of Hearings