

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Dismissed in part; Denied in part	Appeal Number:	2300003
Decision Date:	4/4/2023	Hearing Date:	02/07/2023
Hearing Officer:	Scott Bernard		

Appearance for Appellant:



Appearance for MassHealth:

Mary Jo Elliott, RN *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:	Dismissed in part; Denied in part	Issue:	Personal Care Attendant (PCA)
Decision Date:	4/4/2023	Hearing Date:	02/07/2023
MassHealth's Rep.:	Mary Jo Elliott, RN	Appellant's Rep.:	
Hearing Location:	Quincy Harbor South		

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 December 15, 2022, MassHealth modified the appellant's prior authorization (PA) request for MassHealth PCA services. (See 130 CMR and Exhibit (Ex.) 1, pp. 2-4; Ex. 2, pp. 2-4; Ex. 3, pp. 2-4; Ex. 9, pp. 4-6). The appellant's daughter filed this appeal in a timely manner on December 29, 2022. (See 130 CMR 610.015(B) and Ex. 1; Ex. 2; Ex. 3). Denial of assistance is valid grounds for appeal. (See 130 CMR 610.032).

As the appellant's daughter did not have authority to submit the appeal on the appellant's behalf, on January 5, 2023 the Board of Hearings sent the appellant a notice that the appeal would be dismissed if she did not submit evidence of such authority within 10 days. (Ex. 5). On January 10, 2023, the appellant submitted a signed fair hearing request naming her daughter as the appellant representative. (Ex. 6; Ex. 7).

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 450.204(B) and 422.000 *et seq* in determining that the PA request for PCA services should be modified.

Summary of Evidence

The appellant is an individual over the age of 65 with a primary diagnosis of Alzheimer's dementia. (Ex. 4; Ex. 9, p. 7). The personal care management (PCM) agency submitted a reevaluation request for PCA services to MassHealth requesting 60.5 hours *per* week for the day and evening and two hours *per* night for one year. (Ex. 9, pp. 7-36). In the notice dated December 15, 2022, MassHealth modified the time for day and evening services to 55.75 hours *per* week, while approving the two hours of services *per* night for the dates of services from December 31, 2022 through December 30, 2023. (Ex. 1, pp. 2-5; Ex. 2, pp. 2-5; Ex. 3, pp. 2-5; Ex. 9, pp. 3, 4-6).

In its determination, MassHealth modified the time requested for two activities of daily living (ADLs): Passive Range of Motion (PROM) and Bladder Care. (*Id.*). The PCM agency stated that PROM was to be provided "to all joints to prevent further contractions as noted contractions in [both lower extremities] & [both upper extremities] & legs curled up and tight together and prevent further tightness & aide [sic] in flexibility to continue to provide [complete level of function]." (Ex. 9, p. 11). The PCM agency requested five minutes per day for each of the appellant's four extremities. (*Id.*). MassHealth denied PROM. (Ex. 1, pp. 2-5; Ex. 2, pp. 2-5; Ex. 3, pp. 2-5; Ex. 9, pp. 3, 4-6). The MassHealth representative, a registered nurse and clinical appeals reviewer, stated that PROM was not clinically appropriate for a person of the appellant's age and with the appellant's medical conditions. The MassHealth representative stated that MassHealth denied PROM in the previous PCA reevaluation in 2022. The appellant's representative stated that she agreed with this determination and did not know why the PCM agency requested time for PROM again this year.

For Bladder Care, the PCM agency stated the appellant required "[p]hysical assist with toilet hygiene; Physical assist with clothing management; Physical assist with changing absorbant [sic] product." (Ex. 9, p. 17). The PCM agency requested 15 minutes, five times *per* day, seven days *per* week and, separately, 25 minutes, two times *per* day, seven days *per* week. (Ex. 9, p. 17). In its submission, the PCM agency commented:

D for ALL bladder & bowel care with rolling side/side, hold to wipe & remove soiled brief & don clean brief, then re don lower body clothing, brief is changed approx every 2 hrs -freq 2nd to freq urination as continues to be fed Boost liquid supplements and well hydrated and need to prevent alt in skin, odor many times consumer already in bed (5 brief changes) and needs to be trans back into bed to complete at least (2x day)...consumer does not participate in any fashion will not follow any directions and often will just stare at you, unable to plan organize sequence process and steps in task. (Ex. 9, p. 17).

MassHealth modified bladder care to 15 minutes, five times *per* day, seven days *per* week and 15 minutes, two times *per* day, seven days *per* week. (Ex. 1, pp. 2-5; Ex. 2, pp. 2-5; Ex. 3, pp. 2-5; Ex. 9, pp. 3, 4-6). The MassHealth representative stated that the first line item was for assisting the appellant with changing her absorbent undergarments. The MassHealth representative was unsure of the reason for the second line item. In a notation from the previous year, the PCM agency indicated that the appellant required assistance with transfers. In its submission comment, the PCM agency seemed to bolster this possibility. The PCM agency, however, did not provide a clear reason for why the appellant required 25 minutes for this. The appellant's representative stated that this was possibly

for help using the commode but the MassHealth representative stated that MassHealth approved the time requested for bowel care in its entirety. The appellant's representative could not explain the need for 25 minutes rather than 15 minutes for the second set of times for bladder care. She stated that the appellant required more time for PCA services overall.

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 with a primary diagnosis of Alzheimer's dementia. (Ex. 4; Ex. 9, p. 7).
2. The PCM agency submitted a reevaluation request for PCA services to MassHealth requesting 60.5 hours *per* week for the day and evening and two hours *per* night for one year. (Ex. 9, pp. 7-36).
3. In the notice dated December 15, 2022, MassHealth modified the time for day and evening services to 55.75 hours *per* week, while approving the two hours of services *per* night for the dates of services from December 31, 2022 through December 30, 2023. (Ex. 1, pp. 2-5; Ex. 2, pp. 2-5; Ex. 3, pp. 2-5; Ex. 9, pp. 3, 4-6).
4. In its determination, MassHealth modified the time requested for two ADLs: PROM and Bladder Care. (Ex. 1, pp. 2-5; Ex. 2, pp. 2-5; Ex. 3, pp. 2-5; Ex. 9, pp. 3, 4-6).
5. MassHealth denied the requested time for PROM in its entirety. (Ex. 1, pp. 2-5; Ex. 2, pp. 2-5; Ex. 3, pp. 2-5; Ex. 9, pp. 3, 4-6).
6. The appellant's representative agreed to MassHealth's denial of time for PROM. (Testimony of the appellant's representative).
7. For Bladder Care, the PCM agency stated the appellant required "[p]hysical assist with toilet hygiene; Physical assist with clothing management; Physical assist with changing absorbant [sic] product." (Ex. 9, p. 17).
8. The PCM agency requested 15 minutes, five times *per* day, seven days *per* week and, separately, 25 minutes, two times *per* day, seven days *per* week. (Ex. 9, p. 17).
9. In its submission, the PCM agency commented:

D for ALL bladder & bowel care with rolling side/side, hold to wipe & remove soiled brief & don clean brief, then re don lower body clothing, brief is changed approx every 2 hrs -freq 2nd to freq urination as continues to be fed Boost liquid supplements and well hydrated and need to prevent alt in skin, odor many times consumer already in bed (5 brief changes) and needs to be trans back into bed to complete at least (2x day)...consumer does not participate in any fashion will not follow any directions and often will just stare at you, unable to plan organize

sequence process and steps in task. (Ex. 9, p. 17).

10. MassHealth modified bladder care to 15 minutes, five times *per* day, seven days *per* week and 15 minutes, two times *per* day, seven days *per* week. (Ex. 1, pp. 2-5; Ex. 2, pp. 2-5; Ex. 3, pp. 2-5; Ex. 9, pp. 3, 4-6).

Analysis and Conclusions of Law

The MassHealth Board of Hearings will dismiss a request for a hearing when the request is withdrawn by the appellant. (130 CMR 610.035(A)(2)). The MassHealth notice under appeal stated that it had modified the time requested for PROM and bladder care. (Ex. 1, pp. 2-5; Ex. 2, pp. 2-5; Ex. 3, pp. 2-5; Ex. 9, pp. 3, 4-6). At the hearing, the appellant's representative decided that she did not oppose the modifications MassHealth made to the time requested for PROM. With regard to PROM the appeal is DISMISSED.

The appellant's representative, however, confirmed that she wished to contest the modifications MassHealth made to the time for bladder care.

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)).

A preponderance of the evidence does not demonstrate that the 25 minutes requested in a second line item for bladder care was medically necessary. The record contained very little in the way of explanation for this second line item. Although the MassHealth representative proffered some potential explanations, neither she nor the appellant's representative could explain the reason for the request of a second line item for bladder care. That said, MassHealth saw fit to approve 15 minutes for this second line. This stands as sufficient evidence that MassHealth does understand that some time for this second line item was medically necessary, even though this initial MassHealth reviewer

also did not provide any explanation justifying that time.

For the above stated reasons, the appeal, with regard to bladder care, 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.

Scott Bernard
Hearing Officer
Board of Hearings

cc:

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