

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



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| Appeal Decision: | Denied in part, Dismissed in part | Appeal Number: | 2300175 |
| Decision Date: | 3/28/2023 | Hearing Date: | 02/08/2023 |
| Hearing Officer: | Patrick Grogan | Record Open to: | N/A |

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Donna Burns, RN

Interpreter:
N/A



*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

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|---------------------------|--------------------------------------|--------------------------|-------------------------------------|
| Appeal Decision: | Denied in part, Dismissed in part | Issue: | Prior Authorization PCA Services |
| Decision Date: | 3/28/2023 | Hearing Date: | 02/08/2023 |
| MassHealth's Rep.: | Donna Burns, RN | Appellant's Rep.: | Pro se |
| Hearing Location: | Remote | Aid Pending: | No |

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 6, 2023, MassHealth modified the Appellant's prior authorization for personal care attendant (PCA) services because MassHealth determined that the Appellant requested assistance with various Activities of Daily Living (ADLs) and Instrumental Activities of Daily Living (IADLs) and the Appellant resides with family members (see 130 CMR 422.410 (C)(1) and Exhibit 1), the time requested included activities that are not covered through personal care attendant services (See 130 CMR 422.412(A) and Exhibit 1), the time requested included range of motion exercises that were not supported by the documentation regarding the functional abilities of the Appellant at the time of the hearing (2/8/23) (See 130 CMR 422.410(A)(5), 130 CMR 450.204(A)(1) and Exhibit 1), and the time requested was longer than ordinarily required for someone with the Appellant's physical needs (See 130 CMR 422.410(A)(3), 130 CMR 422.410(A)(4), 130 CMR 450.204(A)(1) and Exhibit 1). The Appellant filed this appeal in a timely manner on January 6, 2023 (see 130 CMR 610.015(B) and Exhibit 2). A decision regarding the scope or amount 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 personal care services.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 422.410(C)(1), 130 CMR 422.412(A), 130 CMR 422 410(A)(5), 130 CMR 405.204(A)(1), 130 CMR 422.410(A)(3) and 130 CMR 422.419(A)(4) in modifying the Appellant's prior authorization request for personal care services.

Summary of Evidence

The Appellant is a MassHealth member whose primary diagnoses include rheumatoid arthritis, PTSD, anxiety, and plantar fasciitis with bone spurs. (Exhibit 6, p. 13, Exhibit 7, p. 2, and Testimony). The Appellant lives with her husband and son, although both work significant hours and often are unavailable to aid her. On December 6, 2023, MassHealth made 9 modifications to the Appellant's prior authorization request for PCA services. (Exhibit 6, p. 3-7 and Testimony). Specifically, MassHealth modified the following: 1) ADL – Passive Range of Motion from 10 minutes, 2 times a day, 7 days a week for the lower left and lower right extremities each to 0 minutes, 0 times a day, 0 days a week for the lower left and lower right extremities each (Exhibit 6, p.16) 2) ADL – Grooming, physical assist with shaving from 5 minutes, 1 time a day, 7 days a week to 5 minutes, 1 time a day, 3 days a week (Exhibit 6, p. 18) 3) ADL – Assistance with Medications, physical assist with prefilling med box from 5 minutes, 1 time a day, 1 day a week to 0 minutes, 0 times a day, 0 days a week and physical assist to administer subcutaneous injections from 3 minutes, 1 time a day, 1 day a week to 0 minutes, 0 times a day, 0 days a week (Exhibit 6, p.22) 4) ADL – Other Health Care Needs, assistance with donning/doffing plantar fasciitis footwear from 5 minutes, 2 times a day, 7 days a week to 0 minutes, 0 times a day, 0 days a week (Exhibit 6, p.23-24) 5) IADL – Meal Preparation – Breakfast – from 10 minutes, 7 days a week to 0 minutes, 0 days a week, Lunch – from 15 minutes, 7 days a week to 0 minutes, 0 days a week, and Dinner from 30 minutes, 7 days a week to 0 minutes, 0 days a week (Exhibit 6, p.26) 6) IADL, Laundry, from 45 minutes, 1 day a week to 30 minutes, 1 day a week 7) IADL, Housekeeping, from 45 minutes, 1 day a week to 30 minutes, 1 day a week (Exhibit 6, p.26) 8) IADL, Shopping, from 45 minutes, 1 day a week to 0 minutes, 0 days a week and 9) IADL, Medical Transportation from 159 minutes per week to 117 minutes per week. (Exhibit 6, p.28).

Regarding 1) ADL – Passive Range of Motion from 10 minutes, 2 times a day, 7 days a week for the lower left and lower right extremities each to 0 minutes, 0 times a day, 0 days a week for the lower left and lower right extremities each (Exhibit 6, p.16), MassHealth testified that the requested times were generally for individuals who are unable to move their limbs on their own. (Testimony) The Appellant testified that she was meeting with her doctor in the coming weeks and anticipated that her mobility may be reduced by the Doctor to further treat her plantar fasciitis. (Testimony). MassHealth testified that MassHealth does not provide anticipatory services, and that the Appellant could seek a modification should her current condition change. The Appellant indicated that she accepted the testimony of MassHealth and would contact her personal care management (PCM) agency. The Appellant ACCEPTED this modification and resolved this issue related to the instant appeal.

Regarding 2) ADL – Grooming, physical assist with shaving from 5 minutes, 1 time a

day, 7 days a week to 5 minutes, 1 time a day, 3 days a week (Exhibit 6, p. 18), MassHealth testified that the requested times exceeded time and frequency ordinarily required for someone with the Appellant's physical needs for physical assistance with shaving. (Testimony) The Appellant described her difficulty with bathing and shaving. Although she testified that she was able to perform limited self-shaving, she would require additional time and frequency especially in relation to her legs. (Testimony) After consideration of the testimony of the Appellant, MassHealth agreed to APPROVE the requested 5 minutes, 1 time a day, 7 days a week, which resolved this issue related to the instant appeal. (Testimony)

Regarding 3) ADL – Assistance with Medications, physical assist with prefilling med box from 5 minutes, 1 time a day, 1 day a week to 0 minutes, 0 times a day, 0 days a week and physical assist to administer subcutaneous injections from 3 minutes, 1 time a day, 1 day a week to 0 minutes, 0 times a day, 0 days a week (Exhibit 6, p.22) MassHealth testified that the requested times were generally aided by family members who reside within the home. (Testimony) The Appellant testified that she keeps her prescription controlled substances in a locked safe upstairs and that she had a fear of needles which impeded her ability to self-administer the subcutaneous injections. (Testimony). MassHealth inquired about the ability of the Appellant to retrieve the medications once a week on her own to prefill fill the med box or if a family member residing with her was able to spend 5 minutes, one time a week to aid in the prefilling of the med box. The Appellant responded that sometimes she requires specific medication to treat her anxiety and would not be able to immediately retrieve medication from the locked safe. No details were provided regarding the Appellant's inability to prefill the med box weekly herself. MassHealth agreed to APPROVE the 3 minutes, 1 time a day, 1 day a week for the subcutaneous injections, but would stand by the modification related to prefilling the med box. No compromise was reached between the parties on this issue (prefilling med box) and it is addressed in the Analysis and Conclusions of Law section below.

Regarding 4) ADL – Other Health Care Needs, assistance with donning/doffing plantar fasciitis footwear from 5 minutes, 2 times a day, 7 days a week to 0 minutes, 0 times a day, 0 days a week (Exhibit 6, p.23-24), MassHealth testified that the requested times exceeded time ordinarily required for someone with the Appellant's physical needs for physical assistance and was incorporated within the dressing/undressing ADL (Testimony) The Appellant described the plantar fasciitis footwear she utilized and that it was not possible for her to get dressed within 10 minutes including the plantar fasciitis footwear. (Testimony) After consideration of the testimony of the Appellant, MassHealth agreed to APPROVE the requested 5 minutes, 2 times a day, 7 days a week, which resolved this issue related to the instant appeal. (Testimony)

Regarding 5) IADL – Meal Preparation – Breakfast – from 10 minutes, 7 days a week to 0 minutes, 0 days a week, Lunch – from 15 minutes, 7 days a week to 0 minutes, 0 days a week, and Dinner from 30 minutes, 7 days a week to 0 minutes, 0 days a week (Exhibit 6, p.26), MassHealth testified that when a member is living with family members, the PCM agency must assume the family members will provide assistance. (130 CMR 422.410(C) and Testimony). The Appellant testified that she has difficulty microwaving food on her own. (Testimony) The Occupational Therapy Functional Status Report indicated that the spouse works 50-60 hours a week and every 5 weeks, is on-call for 24 hours for 1 week. (Exhibit 6, p. 9) The Occupational Therapy Functional

Status Report stated that the spouse currently does all of the cooking. (Exhibit 6, p. 9) The Occupational Therapy Functional Status Report indicated that the spouse would be at work during the morning, afternoon, and night so the Appellant would require assistance to prepare meals at those times. (Exhibit 6, p. 9) MassHealth agreed to APPROVE Meal Preparation as follows: Breakfast – 10 minutes, 5 days a week, Lunch – 15 minutes, 5 days a week, and Dinner from 30 minutes, 5 days a week but would not approve the additional 2 days per week as requested. No compromise was reached between the parties on this issue, and it is addressed in the Analysis and Conclusions of Law section below.

Regarding 6) IADL, Laundry, from 45 minutes, 1 day a week to 30 minutes, 1 day a week, MassHealth testified that when a member is living with family members, the PCM agency must assume the family members will provide assistance. (130 CMR 422.410(C) and Testimony). The Appellant testified regarding the difficulty she had with laundry and specifically bath towels. (Testimony) After consideration of the testimony of the Appellant, MassHealth agreed to APPROVE the requested 45 minutes, 1 day a week, which resolved this issue related to the instant appeal. (Testimony)

Regarding 7) IADL, Housekeeping, from 45 minutes, 1 day a week to 30 minutes, 1 day a week (Exhibit 6, p.26), MassHealth testified that when a member is living with family members, the PCM agency must assume the family members will provide assistance. (130 CMR 422.410(C) and Testimony). The Appellant testified that she has multiple rooms in her home and was unable to perform housekeeping on her own. (Testimony) MassHealth testified that housekeeping is generally limited to personal areas, and despite the expectation that family members will provide assistance, that MassHealth has approved 30 minutes and would stand by the 30 minutes for housekeeping. (Testimony) The Occupational Therapy Functional Status Report stated that the Appellant would benefit from assistance to clean personal spaces. (Exhibit 6, p. 9) No compromise was reached between the parties on this issue and it is addressed in the Analysis and Conclusions of Law section below.

Regarding 8) IADL, Shopping, from 45 minutes, 1 day a week to 0 minutes, 0 days a week, MassHealth testified that MassHealth testified that when a member is living with family members, the PCM agency must assume the family members will provide assistance. (130 CMR 422.410(C) and Testimony). The Appellant testified that she chooses her own food at the grocery store and is able to navigate the grocery store through the use of a motorized shopping cart. (Testimony). The Occupational Therapy Functional Status Report stated that the spouse will complete the shopping. (Exhibit 6, p. 9) No compromise was reached between the parties on this issue, and it is addressed in the Analysis and Conclusions of Law section below.

Regarding 9) IADL, Medical Transportation from 159 minutes per week to 117 minutes per week (Exhibit 6, p.28), MassHealth testified that the medical transportation times were mostly approved, with the exception of transportation to physical therapy, because MassHealth is limited by the number of appointments it can fund, and that she was provided the maximum allowed pursuant to the regulations. (Testimony) The Appellant testified that her PCM did not include all of her medical appointments in its request, The Appellant indicated that she accepted the testimony of MassHealth, that her PCM did not include all of her medical appointments in its request, and that

she would contact her personal care management (PCM) agency. The Appellant ACCEPTED this modification and resolved this issue related to the instant appeal.

Findings of Fact

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

1. The Appellant is a MassHealth member whose primary diagnoses include rheumatoid arthritis, PTSD, anxiety, and plantar fasciitis with bone spurs. (Exhibit 6, p. 13, Exhibit 7, p. 2, and Testimony).
2. The Appellant lives with her husband and son, although both work significant hours and often are unavailable to aid her. (Testimony)
3. On December 6, 2023, MassHealth made 9 modifications to the Appellant's prior authorization request for PCA services.
4. Regarding the first modification 1) ADL – Passive Range of Motion from 10 minutes, 2 times a day, 7 days a week for the lower left and lower right extremities each to 0 minutes, 0 times a day, 0 days a week for the lower left and lower right extremities each (Exhibit 6, p.16), The Appellant indicated that she accepted the testimony of MassHealth and would contact her personal care management (PCM) agency. The Appellant ACCEPTED this modification and resolved this issue related to the instant appeal.
5. Regarding the second modification 2) ADL – Grooming, physical assist with shaving from 5 minutes, 1 time a day, 7 days a week to 5 minutes, 1 time a day, 3 days a week (Exhibit 6, p. 18), MassHealth agreed to APPROVE the requested 5 minutes, 1 time a day, 7 days a week, which resolved this issue related to the instant appeal. (Testimony)
6. Regarding the third modification 3) ADL – Assistance with Medications, physical assist with prefilling med box from 5 minutes, 1 time a day, 1 day a week to 0 minutes, 0 times a day, 0 days a week and physical assist to administer subcutaneous injections from 3 minutes, 1 time a day, 1 day a week to 0 minutes, 0 times a day, 0 days a week (Exhibit 6, p.22), no details were provided regarding the Appellant's ability to prefill the med box weekly herself. MassHealth agreed to APPROVE the 3 minutes, 1 time a day, 1 day a week for the subcutaneous injections, but would stand by the modification related to prefilling the med box. No compromise was reached between the parties on this issue (prefilling med box) and it is addressed in the Analysis and Conclusions of Law section below.
7. Regarding the fourth modification 4) ADL – Other Health Care Needs, assistance with donning/doffing plantar fasciitis footwear from 5 minutes, 2 times a day, 7 days a week to 0 minutes, 0 times a day, 0 days a week (Exhibit 6, p.23-24), MassHealth agreed to APPROVE the requested 5 minutes, 2 times a day, 7 days a week, which resolved this issue related to the instant appeal. (Testimony)

8. Regarding the fifth modification 5) IADL – Meal Preparation – Breakfast – from 10 minutes, 7 days a week to 0 minutes, 0 days a week, Lunch – from 15 minutes, 7 days a week to 0 minutes, 0 days a week, and Dinner from 30 minutes, 7 days a week to 0 minutes, 0 days a week (Exhibit 6, p.26), MassHealth agreed to APPROVE Meal Preparation as follows: Breakfast – 10 minutes, 5 days a week, Lunch – 15 minutes, 5 days a week, and Dinner from 30 minutes, 5 days a week but would stand by the modification. No compromise was reached between the parties on this issue, and it is addressed in the Analysis and Conclusions of Law section below.

9. Regarding the sixth modification 6) IADL, Laundry, from 45 minutes, 1 day a week to 30 minutes, 1 day a week, MassHealth agreed to APPROVE the requested 45 minutes, 1 day a week, which resolved this issue related to the instant appeal. (Testimony)

10. Regarding the seventh modification 7) IADL, Housekeeping, from 45 minutes, 1 day a week to 30 minutes, 1 day a week (Exhibit 6, p.26), no compromise was reached between the parties on this issue, and it is addressed in the Analysis and Conclusions of Law section below.

11. Regarding the eighth modification 8) IADL, Shopping, from 45 minutes, 1 day a week to 0 minutes, 0 days a week, the Appellant testified that she chooses her own food at the grocery store and is able to navigate the grocery store through the use of a motorized shopping cart. (Testimony). The Occupational Therapy Functional Status Report stated that the spouse will complete the shopping. (Exhibit 6, p. 9) No compromise was reached between the parties on this issue, and it is addressed in the Analysis and Conclusions of Law section below.

12. Regarding the ninth modification 9) IADL, Medical Transportation from 159 minutes per week to 117 minutes per week (Exhibit 6, p.28)), MassHealth testified that the medical transportation times were mostly approved, with the exception of transportation to physical therapy, because MassHealth is limited by the number of appointments it can fund, and that she was provided the maximum allowed pursuant to the regulations. (Testimony) The Appellant testified that her PCM did not include all of her medical appointments in its request, The Appellant indicated that she accepted the testimony of MassHealth, that her PCM did not include all of her medical appointments in its request, and that she would contact her personal care management (PCM) agency. The Appellant ACCEPTED this modification and resolved this issue related to the instant appeal.

Analysis and Conclusions of Law

Personal Care Assistant services requested must meet medical necessity criteria as defined at 130 CMR 450.204, below:

(A) 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 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 agency. Services that are less costly to the MassHealth agency include, but are not limited to, health care reasonably known by the provider, or identified by the MassHealth agency 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.

(B) 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. A provider must make those records, including medical records, available to the MassHealth agency upon request. (See 42 U.S.C. 1396a(a)(30) and 42 CFR 440.230 and 440.260.)

In addition to being medically necessary as defined above, time requested for PCA services must comport with the following guidelines at 130 CMR 422.410:

(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 PCA 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 PCA 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.

The appellant has the burden "to demonstrate the invalidity of the administrative determination." Andrews v. Division of Medical Assistance, 68 Mass. App. Ct. 228 (2007). See also Fisch v. Board of Registration in Med., 437 Mass. 128, 131 (2002); Faith Assembly of God of S. Dennis & Hyannis, Inc. v. State Bldg. Code Commn., 11 Mass. App. Ct. 333, 334 (1981); Haverhill Mun. Hosp. v. Commissioner of the Div. of Med. Assistance, 45 Mass. App. Ct. 386, 390 (1998). Although there were 9 modifications in total, the parties were able to reach agreement on 5 of those modifications. 4 other modifications remain contested in total, or in part. All are discussed below.

Regarding the first modification, 1) ADL – Passive Range of Motion from 10 minutes, 2 times a day, 7 days a week for the lower left and lower right extremities each to 0 minutes, 0 times a day, 0 days a week for the lower left and lower right extremities each (Exhibit 6, p.16), the Appellant accepted this modification and resolved this issue related to the instant appeal. Therefore, the appeal related to the first modification is DISMISSED. (130 CMR 610.051(B)).

Regarding the second modification, 2) ADL – Grooming, physical assist with shaving from 5 minutes, 1 time a day, 7 days a week to 5 minutes, 1 time a day, 3 days a week (Exhibit 6, p. 18), MassHealth agreed to approve the requested 5 minutes, 1 time a day, 7 days a week, which resolved this issue related to the instant appeal (Testimony) Therefore, the appeal related to the third modification is DISMISSED. (130 CMR 610.051(B)).

Regarding the third modification, 3) ADL – Assistance with Medications, physical assist with refilling med box from 5 minutes, 1 time a day, 1 day a week to 0 minutes, 0 times a day, 0 days a week and physical assist to administer subcutaneous injections from 3 minutes, 1 time a day, 1 day a week to 0 minutes, 0 times a day, 0 days a week (Exhibit 6, p.22) MassHealth testified that the requested time was generally aided by family members who reside within the home. (Testimony) The Appellant testified that she keeps her prescription controlled substances in a locked safe

upstairs and that she had a fear of needles which impeded her ability to self-administer the subcutaneous injections. (Testimony). MassHealth inquired about the ability of the Appellant to retrieve the medications once a week on her own to prefill fill the med box or if a family member residing with her was able to spend 5 minutes, one time a week to aid in the prefilling of the med box. The Appellant responded that sometimes she requires specific medication to treat her anxiety and would not be able to immediately retrieve medication from the locked safe. However, this does not address the prefilling of the medication box on a once per week basis. Weekly prefilling, as requested by the Appellant's PCM, would not address the concerns the Appellant raised through testimony regarding medication as needed. No details were provided regarding the Appellant's inability to prefill the med box weekly herself. Ample evidence was provided regarding the Appellant's ability to perform certain activities requiring manual dexterity (limited self-shaving, navigating a grocery store for purposes of selecting items, the ability to manipulate pages to follow along with the Optum report for the instant hearing. (Testimony) However, MassHealth agreed to approve the 3 minutes, 1 time a day, 1 day a week for the subcutaneous injections. This agreement is memorialized through the Order for MassHealth section below. Regarding the prefilling of the med box, I find that the Appellant has not met her burden to show the invalidity of MassHealth's determination. Additionally, the Appellant has not demonstrated the medical necessity for the weekly pre-filling of the med box nor that she requires assistance in the administration of the pills. Therefore, MassHealth's agreement pertaining to the subcutaneous injections remains, however, the appeal related to the prefilling of the med box within the third modification is DENIED.

Regarding the fourth modification, 4) ADL – Other Health Care Needs, assistance with donning/doffing plantar fasciitis footwear from 5 minutes, 2 times a day, 7 days a week to 0 minutes, 0 times a day, 0 days a week. (Exhibit 6, p.23-24), MassHealth agreed to approve the requested 5 minutes, 2 times a day, 7 days a week, which resolved this issue related to the instant appeal. (Testimony) Therefore, the appeal related to the third modification is DISMISSED. (130 CMR 610.051(B)).

Regarding the fifth modification, 5) IADL – Meal Preparation – Breakfast – from 10 minutes, 7 days a week to 0 minutes, 0 days a week, Lunch – from 15 minutes, 7 days a week to 0 minutes, 0 days a week, and Dinner from 30 minutes, 7 days a week to 0 minutes, 0 days a week (Exhibit 6, p.26), MassHealth testified that when a member is living with family members, the PCM agency must assume the family members will provide assistance. (130 CMR 422.410(C) and Testimony). The Appellant testified that she has difficulty microwaving food on her own. (Testimony) The Occupational Therapy Functional Status Report indicated that the spouse works 50-60 hours a week and every 5 weeks, is on-call for 24 hours for 1 week. (Exhibit 6, p. 9) The Occupational Therapy Functional Status Report stated that the spouse currently does all of the cooking. (Exhibit 6, p. 9) The Occupational Therapy Functional Status Report indicated that the spouse would be at work during the morning, afternoon, and night so the Appellant would require assistance to prepare meals at those times. (Exhibit 6, p. 9) MassHealth agreed to approve Meal Preparation as follows: Breakfast – 10 minutes, 5 days a week, Lunch – 15 minutes, 5 days a week, and Dinner from 30 minutes, 5 days a week. This agreement is memorialized through the Order for MassHealth section below. Regarding the additional two days requested through the Appellant's PCM, I find that the Appellant has not met her burden to show the invalidity of MassHealth's determination. The Appellant resides with two different family members and the PCM agency must assume the family

members will provide assistance. (130 CMR 422.410(C)) MassHealth's agreement to provide 5 of the 7 days requested for meal preparation remains, however, the appeal related to the additional two days per week within the fifth modification is DENIED.

Regarding the sixth modification, 6) IADL, Laundry, from 45 minutes, 1 day a week to 30 minutes, 1 day a week, MassHealth agreed to APPROVE the requested 45 minutes, 1 day a week, which resolved this issue related to the instant appeal (Testimony) Therefore, the appeal related to the third modification is DISMISSED. (130 CMR 610.051(B)).

Regarding the seventh modification, 7) IADL, Housekeeping, from 45 minutes, 1 day a week to 30 minutes, 1 day a week (Exhibit 6, p.26), MassHealth testified that when a member is living with family members, the PCM agency must assume the family members will provide assistance. (130 CMR 422.410(C) and Testimony). The Appellant testified that she has multiple rooms in her home and was unable to perform housekeeping on her own. (Testimony) MassHealth testified that housekeeping is generally limited to personal areas, and despite the expectation that family members will provide assistance, that MassHealth has approved 30 minutes and would stand by the 30 minutes for housekeeping. (Testimony) The Occupational Therapy Functional Status Report stated that the Appellant would benefit from assistance to clean personal spaces. (Exhibit 6, p. 9) I find that the Appellant has not met her burden to show the invalidity of MassHealth's determination. The Appellant resides with two different family members, and the PCM agency must assume the family members will provide assistance. (130 CMR 422.410(C)) Therefore, the appeal related to the seventh modification is DENIED.

Regarding the eighth modification, 8) IADL, Shopping, from 45 minutes, 1 day a week to 0 minutes, 0 days a week, MassHealth testified that MassHealth testified that when a member is living with family members, the PCM agency must assume the family members will provide assistance. (130 CMR 422.410(C) and Testimony). The Appellant testified that she chooses her own food at the grocery store and is able to navigate the grocery store through the use of a motorized shopping cart. (Testimony). The Occupational Therapy Functional Status Report explicitly stated that the spouse will complete the shopping. (Exhibit 6, p. 9) I find that the Appellant has not met her burden to show the invalidity of MassHealth's determination. The Appellant resides with two different family members, and the PCM agency must assume the family members will provide assistance. (130 CMR 422.410(C)) Therefore, the appeal related to the eighth modification is DENIED.

Regarding the ninth modification, 9) IADL, Medical Transportation from 159 minutes per week to 117 minutes per week (Exhibit 6, p.28)), the Appellant indicated that she accepted the testimony of MassHealth, and that her PCM did not include all of her medical appointments in its request, and that she would contact her personal care management (PCM) agency. The Appellant accepted this modification and resolved this issue related to the instant appeal. (Testimony)

Order for MassHealth

Adjust the modifications made to the time requested for PCA services and approve the

following as of December 7, 2022:

- Grooming, Shaving (5 minutes, 1 time a day, 7 days a week)
- Assistance with Medications, physical assist to administer subcutaneous injections (3 minutes, 1 time a day, 1 day a week)
- Other Health Care Needs, assistance with donning/doffing plantar fasciitis footwear (5 minutes, 2 times a day, 7 days a week)
- Meal Preparation, Breakfast – 10 minutes, 5 days a week, Lunch – 15 minutes, 5 days a week, and Dinner 30 minutes, 5 days a week
- Laundry, 45 minutes, 1 day a week

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.

Implementation of this Decision

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

Patrick Grogan
Hearing Officer
Board of Hearings

cc:

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