

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2300707
<b>Decision Date:</b>	4/28/2023	<b>Hearing Date:</b>	04/11/2023
<b>Hearing Officer:</b>	Thomas J. Goode	<b>Aid Pending:</b>	No

**Appearance for Appellant:**  
Pro se with Daughter

**Appearances for United HealthCare Senior  
Care Options:**  
Susan McAllister, M.D., Medical Director,  
Long Term Care Services and Supports



*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 Services
<b>Decision Date:</b>	4/28/2023	<b>Hearing Date:</b>	4/11/2023
<b>UHCSCO's Reps.:</b>	Susan McAllister, M.D., Medical Director, Long Term Care Services and Supports	<b>Appellant's Rep.:</b>	Pro se with Daughter
<b>Hearing Location:</b>	Remote		

## 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 March 13, 2023, and following a first-level standard internal appeal, United HealthCare (UHCSCO) notified Appellant that it had upheld modifications to Appellant's request for Personal Care Attendant (PCA) services (130 CMR 508.008, 422.000 *et seq.* and Exhibit 1). Appellant filed this appeal in a timely manner on March 17, 2023 (130 CMR 508.008, 610.015, 610.032(B) and Exhibit 2). Modification of a prior authorization request for PCA services is valid grounds for appeal (130 CMR 508.008, 610.032(B)).

## Action Taken by United HealthCare Senior Care Options

Following a level-one standard internal appeal, United HealthCare Senior Care Options modified Appellant's prior authorization request for PCA services.

## Issue

The appeal issue is whether United HealthCare Senior Care Options was correct in modifying Appellant's prior authorization request for PCA services.

## Summary of Evidence

United HealthCare Senior Care Options was represented by Dr. Susan McAllister who testified that Appellant is a MassHealth member enrolled in United HealthCare Senior Care Options (UHCSCO) program. Dr. McAllister testified that Appellant was previously enrolled in UHCSCO in 2019 and was authorized for 19 day/evening Personal Care Attendant (PCA) hours. Appellant's PCA hours were reduced to 9.5 hours in 2019 after which Appellant disenrolled from UHCSCO. Appellant reenrolled in UHCSCO in February 2020 with 19 PCA hours in place, which were continued following telephone reviews in 2020, 2021, and 2022 due to the pandemic. An in-person evaluation of Appellant's need for PCA services was conducted by a registered nurse on January 19, 2023, and PCA hours were authorized for 11.75 hours per week (Exhibit 8). Appellant submitted a request for a level-one appeal to UHCSCO on March 2, 2023, and on March 13, 2023 UHCSCO upheld the reduction in PCA hours to 11.75 day/evening hours.

Appellant is [REDACTED] years old with primary diagnoses of osteoarthritis, interstitial lung disease/pulmonary fibrosis, and amnesia (Exhibit 8, p. 1, Exhibit 5, p. 5). The nurse reviewer determined at the in-person evaluation that Appellant's durable medical equipment (DME) includes a shower chair, a hand-held shower, and grab bars for support. Appellant denied the need for additional durable medical equipment. Appellant can get in and out of bed and reposition in bed independently without DME. Appellant was observed to walk with a steady gait up and down stairs independently and without DME. Appellant was observed to independently rise to a standing position and ambulate in the home without assistance or DME. Appellant denied any falls. Appellant reported he can independently wash the upper body but requires some assistance with the lower body and feet due to limited range of motion and back pain. Appellant reported he can independently wash and dry his hair and complete personal hygiene. Appellant reported he needs assistance with transferring in/out of the tub due to the height of the tub, and that the PCA needs to provide support by the arm while he is holding onto a grab bar for safety. UHCSCO allowed PCA time 11 minutes per day, 7 days per week to assist with washing Appellant's lower body, and 10 minutes per day, 7 days per week to assist with transfers in and out of the shower.

The evaluation reports that Appellant was able to demonstrate how he completes grooming activities including combing hair, trimming nails and brushing his teeth, and that he is independent with personal hygiene and oral care. Appellant is also independent with dressing/undressing his upper body including buttons and zippers and requires assistance with dressing/undressing his lower body due to limited range of motion and back pain. UHCSCO allowed PCA time 5 minutes per day, 7 days per week for assistance with dressing Appellant's lower body. Appellant is independent with all eating and drinking activities and is able to use the toilet independently and benefits from a bidet installed by his son. Appellant reported that he is not able to manage his medications due to polypharmacy, and reported that his PCA fills the medication planner and he is then able to take meds from the planner independently. Appellant was observed to have good medication knowledge and ability to open medication bottles independently. UHCSCO allowed 20 minutes once per week to fill the medication planner.

Regarding IADLs (instrumental activities of daily living) the evaluation shows that Appellant reported he is unable to prepare meals. UHCSCO approved 270 minutes per week PCA time for meal preparation with 25 minutes per week for snacks, and daily increments of 5 minutes for breakfast preparation, 15 minutes for lunch preparation, and 15 minutes for dinner preparation. Appellant reported that he needs assistance with laundry including gathering and sorting, loading, and unloading clothes from the machines and putting clothes away due to back pain. Appellant reported that laundry machines are in the building on a different floor. UHCSCO allowed 60 minutes PCA time for laundry. Appellant was observed to have great difficulty bending to lift items and due to back pain needs assistance to clean floors, vacuum, and housework. UHCSCO allowed 90 minutes per week for housework. UHCSCO also allowed 35 minutes per week for assistance with putting away groceries. Appellant reported he is not able to manage finances due to forgetfulness, and his daughter manages all finances as natural support. Appellant reported that he knows what bills need to be paid but has never managed the finances of the home. UHCSCO allowed PCA time 30 minutes per week for the PCA to manage Appellant's finances. Appellant reported he is independent with arranging transportation to and from medical appointments and has some difficulty getting in/out of the vehicle due to the height of the vehicle, Appellant reported that caregiver needs to support member by the arm to get in and out of the car and caregiver needs to pull him up by the arm to exit the car. UHCSCO allowed 35 minutes per week for assistance with medical appointments which were reported as 12 appointments per year. The UHCSCO representative stated that Appellant can walk and communicate on his own, therefore PCA assistance for medical appointments is authorized to assist Appellant getting to and from the vehicle for transportation to the appointments but does not include time for accompanying Appellant to the appointment. The UHCSCO representative testified that he Appellant's next in-person evaluation is due in June 2023.

Appellant was accompanied by his daughter who is also his PCA, and who testified on his behalf. Appellant's daughter testified that Appellant lives with his spouse who should be receiving assistance at home but has not completed necessary paperwork to initiate services. Appellant's daughter stated that she does not live with Appellant. She added that she feels UHCSCO should allow more time for laundry because Appellant does not assist with laundry. She typically does 3 loads of Appellant's laundry each week and takes the laundry to a laundromat. Appellant occasionally has accidents that require her to change sheets two or three times per week. Appellant's daughter also disagreed with PCA time allowed for medical appointments because in addition to assisting Appellant to and from the car, she drives to and from appointments, and attends appointments with Appellant. Appellant often uses a wheelchair to access appointments, and she feels he can not attend appointments independently. Appellant submitted additional medical records which show that Appellant was diagnosed with pulmonary fibrosis in early 2022 which Appellant's daughter stated further limits his functional ability and causes him to be short of breath and cough while brushing his teeth (Exhibits 5, 6). Dr. McAllister reviewed the records and submitted a response indicating that the records show Appellant's overall well-being and improvement, and that based on the records, additional PCA hours are not recommended (Exhibit 7).

## Findings of Fact

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

1. Appellant is a MassHealth member enrolled in United HealthCare Senior Care Options program.
2. Appellant was previously enrolled in UHCSCO in 2019 and was authorized for 19 day/evening PCA hours. Appellant's PCA hours were reduced to 9.5 hours in 2019 after which Appellant disenrolled from UHCSCO.
3. Appellant reenrolled in UHCSCO in February 2020 with 19 PCA hours in place, which were continued following telephone reviews in 2020, 2021, and 2022.
4. An in-person evaluation of Appellant's need for PCA services was conducted by a registered nurse on January 19, 2023, and PCA hours were authorized for 11.75 hours per week.
5. Appellant submitted a request for a level-one appeal to UHCSCO on March 2, 2023, and on March 13, 2023 UHCSCO upheld the reduction in PCA hours to 11.75 day/evening hours.
6. Appellant is ■ years old with primary diagnoses of osteoarthritis, interstitial lung disease/pulmonary fibrosis, and amnesia.
7. Appellant's durable medical equipment (DME) includes a shower chair, a hand-held shower, and grab bars for support. Appellant denied the need for additional durable medical equipment.
8. Appellant can get in and out of bed and reposition in bed independently without DME.
9. Appellant was observed to walk with a steady gait up and down stairs independently and without DME. Appellant was observed to independently rise to a standing position and ambulate in the home without assistance or DME. Appellant denied any falls.
10. Appellant reported he can independently wash his upper body but requires some assistance with the lower body and feet due to limited range of motion and back pain. Appellant reported he can independently wash and dry his hair and complete personal hygiene. Appellant reported he needs assistance with transferring in/out of the tub due to the height of the tub, and that the PCA needs to provide support by the arm while he is holding onto a grab bar for safety.
11. UHCSCO allowed PCA time 11 minutes per day, 7 days per week to assist with washing Appellant's lower body, and 10 minutes per day, 7 days per week to assist with transfers in and out of the shower.

12. Appellant was able to demonstrate how he completes grooming activities including combing hair, trimming nails and brushing his teeth, and that he is independent with personal hygiene and oral care.
13. Appellant is independent with dressing/undressing upper body including buttons and zippers and requires assistance with dressing/undressing his lower body due to limited range of motion and back pain. UHCSCO allowed PCA time 5 minutes per day, 7 days per week for assistance with dressing Appellant's lower body.
14. Appellant is independent with all eating and drinking activities.
15. Appellant can use the toilet independently and benefits from a bidet installed by his son.
16. Appellant is not able to manage his medications due to polypharmacy, and his PCA fills the medication planner and then he is able to take medication from the planner independently. Appellant was observed to have good medication knowledge and ability to open medication bottles independently. UHCSCO allowed 20 minutes once per week to fill the medication planner.
17. Appellant reported that he is unable to prepare meals. UHCSCO approved 270 minutes per week PCA time for meal preparation with 25 minutes per week for snacks, and daily increments of 5 minutes for breakfast preparation, 15 minutes for lunch preparation, and 15 minutes for dinner preparation.
18. Appellant reported that he needs assistance with laundry including gathering and sorting, loading, and unloading clothes from the machines and putting clothes away due to back pain.
19. Appellant reported that laundry machines are in the building on a different floor.
20. UHCSCO allowed 60 minutes PCA time for laundry.
21. Appellant was observed to have great difficulty bending to lift items and due to back pain needs assistance to clean floors, vacuum, and housework. UHCSCO allowed 90 minutes per week for housework.
22. UHCSCO allowed 35 minutes per week for assistance with putting away groceries.
23. Appellant reported he is not able to manage finances due to forgetfulness. UHCSCO allowed PCA time 30 minutes per week for the PCA to manage Appellant's finances.
24. Appellant reported he is independent with arranging transportation to and from medical appointments and has some difficulty getting in/out of the vehicle due to the height of the vehicle. Appellant reported that the PCA needs to support him by the arm to get in and out of the car and needs to pull him up by the arm to exit the car. UHCSCO allowed 35

minutes per week for assistance with medical appointments which were reported as 12 appointments per year.

25. Appellant's next in-person evaluation is due in June 2023.

26. Appellant's daughter is his PCA and does not live with Appellant.

## **Analysis and Conclusions of Law**

Appellant has the burden of proving by a preponderance of the evidence the invalidity of the determination by the MassHealth agency or the SCO contracting with MassHealth.<sup>1</sup> Appellant is a MassHealth member enrolled in United HealthCare Senior Care Options program, which is a health plan that contracts with both Medicare and the Commonwealth of Massachusetts Medicaid program to provide benefits of both programs to enrollees. UHC Senior Care Options is designed specifically for people who have Medicare and who are also entitled to assistance from MassHealth (Medicaid). Pursuant to 130 CMR 508.008(C), when a MassHealth member chooses to enroll in a senior care organization (SCO), the SCO will deliver the member's primary care and will authorize, arrange, integrate, and coordinate the provision of all covered services for the member. As such, UHCSCO is responsible for authorizing all covered services for Appellant, including PCA services in accordance with its medical necessity guidelines for PCA services and MassHealth regulations. Pursuant to 130 CMR 422.403(C), MassHealth covers PCA services provided to eligible MassHealth members who can be appropriately cared for in the home when all the following conditions are met: (1) The PCA services are authorized for the member in accordance with 130 CMR 422.416; (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 PCM agency, requires physical assistance with two or more of the ADLs as defined in 130 CMR 422.410(A); (4) The MassHealth agency has determined that the PCA services are medically necessary.

### 130 CMR 450.204: Medical Necessity

The MassHealth agency does not pay a provider for services that are not medically necessary.

(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

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<sup>1</sup> See Fisch v. Board of Registration in Med., 437 Mass. 128, 131 (2002) (burden is on appellant to demonstrate the invalidity of an administrative determination).

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: *Potential Sources of Health Care*, or 517.007: *Utilization of Potential Benefits*.<sup>2</sup>

The UHCSCO Guidelines and MassHealth regulations establish that PCA services require prior authorization.<sup>3</sup> Prior authorization requests submitted to UHCSCO for determination are reviewed in accordance with 130 CMR 422.000 *et seq.*, and must provide all covered services in an amount, duration, type, frequency and scope that is no less than the amount, duration, type, frequency and scope for the same services provided under MassHealth fee for service.<sup>4,5</sup> UHCSCO is responsible for determining eligibility and the hours of physical assistance that are medically necessary for PCA services in accordance with 130 CMR 422.000 *et seq.*

Appellant is a MassHealth member enrolled in United HealthCare Senior Care Options program. Appellant is [REDACTED] years old with primary diagnoses of osteoarthritis, interstitial lung disease/pulmonary fibrosis, and amnesia. Appellant was previously enrolled in UHCSCO in 2019 and was authorized for 19 day/evening PCA hours. Appellant's PCA hours were reduced to 9.5 hours in 2019 after which Appellant disenrolled from UHCSCO. Appellant reenrolled in UHCSCO in February 2020 with 19 PCA hours in place, which were continued due to the pandemic after telephone reviews in 2020, 2021, and 2022. An in-person evaluation of Appellant's need for PCA

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<sup>2</sup> The UHCSCO Medical Necessity Guidelines provide: Medically Necessary—means health care services, supplies, or drugs needed for the prevention, diagnosis, or treatment of your sickness, injury or illness that are all of the following as determined by us or our designee, within our sole discretion:

- In accordance with Generally Accepted Standards of Medical Practice.
- Most appropriate, in terms of type, frequency, extent, site and duration, and considered effective for your sickness, injury, or illness.
- Not mainly for your convenience or that of your doctor or other health care provider.
- Meet, but do not exceed your medical need, are at least as beneficial as an existing and available medically appropriate alternative and are furnished in the most cost-effective manner that may be provided safely and effectively.

Generally Accepted Standards of Medical Practice are standards that are based on credible scientific evidence published in peer-reviewed medical literature generally recognized by the relevant medical community, relying primarily on controlled clinical trials, or, if not available, observational studies from more than one institution that suggest a causal relationship between the service or treatment and health outcomes. If no credible scientific evidence is available, then standards that are based on Physician specialty society recommendations or professional standards of care may be considered. We reserve the right to consult expert opinion in determining whether health care services are Medically Necessary. The decision to apply Physician specialty society recommendations, the choice of expert and the determination of when to use any such expert opinion, shall be within our sole discretion. See Exhibit 4, pp. 49-50.

<sup>3</sup> See Exhibit 4, p. 87, and 130 CMR 422.416.

<sup>4</sup> See Exhibit 4, p. 343, Section 2.6 Enrollee Access to Services.

<sup>5</sup> See 130 CMR 422.411: Covered Services(A) MassHealth covers activity time performed by a PCA in providing assistance with ADLs and IADLs as described in 130 CMR 422.410, as specified in the evaluation described in 130 CMR 422.422(C) and (D), and as authorized by the MassHealth agency.



services was conducted by a registered nurse on January 19, 2023, and PCA hours were authorized for 11.75 hours per week. Appellant submitted a request for a level-one appeal to UHCSCO on March 2, 2023, and on March 13, 2023 UHCSCO upheld the reduction in PCA hours to 11.75 day/evening hours. The on-site evaluation reports:

### **Activities of Daily Living**

#### **Bed Repositioning/Walking/Ambulation/Transfers:**

Appellant's durable medical equipment (DME) includes a shower chair, a hand-held shower, and grab bars for support. Appellant denied the need for additional durable medical equipment. Appellant can get in and out of bed and reposition in bed independently without DME. Appellant was observed to walk with a steady gait up and down stairs independently and without DME. Appellant was observed to independently rise to a standing position and ambulate in the home without assistance or DME. Appellant denied any falls.

#### **Bathing:**

Appellant reported he can independently wash his upper body but requires some assistance with the lower body and feet due to limited range of motion and back pain. Appellant reported he can independently wash and dry his hair and complete personal hygiene. Appellant reported he needs assistance transferring in/out of the tub due to the height of the tub, and that the PCA needs to provide support by the arm while he is holding onto a grab bar for safety. UHCSCO allowed PCA time 11 minutes per day, 7 days per week to assist with washing Appellant's lower body, and 10 minutes per day, 7 days per week to assist with transfers in and out of the shower.

#### **Personal Hygiene/Oral Care:**

The evaluation notes that Appellant was able demonstrate how he completes grooming activities including combing hair, trimming nails and brushing his teeth, and he is independent with personal hygiene and oral care.

#### **Dressing/Undressing:**

Appellant is independent with dressing/undressing upper body including buttons and zippers and requires assistance with dressing/undressing lower body due to limited range of motion and back pain. UHCSCO allowed PCA time 5 minutes per day, 7 days per week for assistance with dressing Appellant's lower body.

#### **Eating/Drinking Activities:**

Appellant was observed to be independent with all eating and drinking activities.

#### **Toileting:**

Appellant can use the toilet independently and benefits from a bidet installed by his son.

#### Medication Administration:

Appellant is not able to manage his medications due to polypharmacy, and his PCA fills the medication planner and then he is able to take meds from the planner independently. Appellant was observed to have good medication knowledge and ability to open medication bottles independently. UHCSCO allowed 20 minutes once per week to fill the medication planner.

For each ADL reviewed, the in-person evaluation completed by a UHCSCO reviewing nurse provides a detailed review of Appellant's functional abilities determined with Appellant's input, and the clinical reasoning for PCA time allowed to complete each task. Further, Dr. McAllister's testimony and review of medical records is credible in determining that Appellant's additional diagnoses of interstitial lung disease/pulmonary fibrosis does not warrant increased PCA services at this time. Appellant has not carried the burden of showing that the UHCSCO determination is incorrect.

### **INSTRUMENTAL ACTIVITIES OF DAILY LIVING**

#### Meal Preparation/Housekeeping/Shopping/Finances:

Appellant reported that he is unable to prepare meals. UHCSCO approved 270 minutes per week PCA time for meal preparation with 25 minutes per week for snacks, and daily increments of 5 minutes for breakfast preparation, 15 minutes for lunch preparation, and 15 minutes for dinner preparation. Appellant was observed to have great difficulty bending to lift items and due to back pain needs assistance to clean floors, vacuum, and housework. UHCSCO allowed 90 minutes per week for housework. UHCSCO also allowed 35 minutes per week for assistance with putting away groceries. Appellant reported he is not able to manage finances due to forgetfulness. UHCSCO allowed PCA time 30 minutes per week for the PCA to manage Appellant's finances. For each IADL reviewed, the in-person evaluation completed by a UHCSCO reviewing nurse provides a detailed review of Appellant's functional abilities determined with Appellant's input, and the clinical reasoning for PCA time allowed to complete each task. Further, Dr. McAllister's testimony and review of medical records is credible in determining that Appellant's additional diagnoses of interstitial lung disease/pulmonary fibrosis does not warrant increased PCA services to complete these IADL activities. Appellant has not carried the burden of showing that the UHCSCO determination is incorrect.

#### Laundry:

Appellant reported that he needs assistance with laundry including gathering and sorting, loading, and unloading clothes from the machines and putting clothes away due to back pain. Appellant reported that laundry machines are in the building on a different floor. Appellant's daughter who is also his PCA reported that she takes laundry to a laundromat to typically do 3 loads per week depending on whether or not Appellant had accidents. The in-person evaluation

completed by a UHCSCO reviewing nurse provides a detailed review of Appellant's functional abilities determined with Appellant's input, and the clinical reasoning for PCA time allowed to complete laundry. I defer to the nurse reviewer's determination based on the on-site evaluation that 60 minutes per week is sufficient PCA time to complete laundry, which does not include time waiting for the machines to complete a cycle. As far as the discrepancy in the location of the laundry machines, the location of the machines can be resolved at the next on-site evaluation in June 2023.

Transportation to Medical Appointments:

Appellant reported that he is independent with arranging transportation to and from medical appointments and has some difficulty getting in/out of the vehicle due to the height of the vehicle. Appellant reported that the caregiver needs to support him by the arm to get in and out of the car and that the PCA needs to pull Appellant up by the arm to exit the car. UHCSCO allowed 35 minutes per week for assistance with medical appointments which were reported as 12 appointments per year. Appellant's daughter testified that more PCA time is needed because she attends medical appointments with Appellant. MassHealth regulations allow PCA services for accompanying the member to medical providers; however, it does not include time to attend and participate in the medical appointments as a family member.<sup>6</sup>

For the foregoing reasons, the appeal is DENIED.

## **Order for United HealthCare**

None.

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<sup>6</sup> See 130 CMR 422.410(B)(3).

## **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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Thomas J. Goode  
Hearing Officer  
Board of Hearings

cc: United HealthCare SCO, Attn: Dr. Susan McAllister, 950 Winter St. Suite 3800 Waltham,  
MA 02451