

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision: Dismissed in part;
Approved in part

Appeal Number: 2300723

Decision Date: 4/20/2023

Hearing Date: 02/28/2023

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; Approved in part	Issue:	Personal Care Attendant (PCA)
Decision Date:	4/20/2023	Hearing Date:	02/28/2023
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 January 10, 2023, MassHealth modified the appellant's prior authorization (PA) for PCA services. (See 130 CMR 422.410; 450.204; Exhibit (Ex.) 1; Ex. 2, pp. 2-5; Ex. 5, pp. 4-6). The appellant filed this appeal in a timely manner on January 26, 2023. (See 130 CMR 610.015(B) and Ex. 2). Modification of a PA request is valid grounds for appeal. (See 130 CMR 610.032).

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 422.410 and 450.204, in modifying the appellant's PA request.

Summary of Evidence

The appellant is an individual under the age of 65 with a primary diagnosis of thoracic outlet syndrome. (Ex. 3; Ex. 5, p. 12). The personal care management (PCM) agency submitted an initial PA request for PCA services to MassHealth requesting 20 hours, 30 minutes per week of day and evening PCA services for one year. (Ex. 1; Ex. 2, pp. 3-5; Ex. 5, pp. 4-6). In the notice dated January 10, 2023, MassHealth approved 11 hours, 30 minutes per week of day and evening PCA services for dates of

service from January 10, 2023 through January 9, 2024. (Ex. 1; Ex. 2, pp. 3-5; Ex. 5, pp. 4-6).

The MassHealth representative, a registered nurse and clinical appeals reviewer, stated the following. Since this was an initial request for services, the PCM agency submitted an occupational therapy (OT) report in addition to a registered nurse's evaluation. (Ex. 5, pp. 8-10). The OT report indicated that the appellant required maximum assistance with all instrumental activities of daily living (IADLs). (Ex. 5, p. 9). As for activities of daily living (ADLs), the appellant required maximum assistance with grooming; minimum assistance with bathing, dressing, transfers in and out of the tub or shower; and was independent with all other ADLs. (Ex. 5, pp. 8-9). PCM agency wrote that the appellant's symptoms included "...limbs/muscle weakness in upper extremities with automobile accident. Minor neuropathy in elbow. Transverse surgery in June and February of last year, most recent 3 weeks before assessment. PTSD and chronic pain in hands, anxiety/depression." (Ex. 5, p. 12).

Based on the PCM agency's submission, MassHealth made seven modifications to the appellant's request for PCA assistance with ADLs and IADLs. (See Ex. 1; Ex. 2, pp. 3-5; Ex. 5, pp. 4-6). During the course of the hearing, the appellant and her representative accepted the modification MassHealth made to bathing. After considering the appellant's testimony, the MassHealth representative decided to amend the modifications to and increase the time allotted for dressing and meal preparation, which the appellant accepted.¹ The MassHealth representative also overturned the modifications to undressing, housekeeping, and shopping, and approved the time as requested.

This left one modification, to laundry. The PCM agency requested 60 minute *per* week, stating that the appellant was dependent for all laundry and the laundry was residential. (Ex. 5, p. 27). MassHealth modified this to 30 minutes *per* week. (See Ex. 1; Ex. 2, pp. 3-5; Ex. 5, pp. 4-6). The MassHealth representative stated that the PCM agency's submission did not contain any documentation indicating that the appellant was incontinent or had other extraordinary laundry needs. The MassHealth representative stated that according to the time for task tool, 30 minutes would be enough time for there to be two loads of laundry for one person. The MassHealth representative stated that this time represents the active part of completing the laundry, and does not include the time the laundry actually is in the washer or dryer – i.e. it includes the time for bringing the laundry to the washer, loading the washer, unloading the washer into the dryer, unloading the dryer, folding, and putting away.

The appellant stated that she generally has four loads of laundry *per* week. The appellant's representative stated that if this were so, and each laundry load was 15 minutes, the appellant should receive 60 minutes *per* week. In answer to a question for the MassHealth representative, the appellant stated that the laundry includes her clothing, towels, bed sheets, and blankets. The appellant stated that although she is not incontinent, she does tend to spill a lot of food on herself. Based on the appellant's testimony, the MassHealth representative offered to increase the time to 45 minutes *per* week. The appellant and her representative did not accept this, because in reality it often takes the PCA more than 15 minutes *per* load, and 60 minutes was the minimum the appellant required.

¹ The MassHealth representative increased the time for dressing to eight minutes *per* day and the time for meal preparation to 50 minutes *per* day.

Findings of Fact

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

1. The appellant is an individual under the age of 65 with a primary diagnosis of thoracic outlet syndrome. (Ex. 3; Ex. 5, p. 12).
2. The appellant symptoms include "...limbs/muscle weakness in upper extremities with automobile accident. Minor neuropathy in elbow. Transverse surgery in June and February of last year, most recent 3 weeks before assessment. PTSD and chronic pain in hands, anxiety/depression." (Ex. 5, p. 12).
3. The PCM agency submitted an initial PA request for PCA services to MassHealth requesting 20 hours, 30 minutes per week of day and evening PCA services for one year. (Ex. 1; Ex. 2, pp. 3-5; Ex. 5, pp. 4-6).
4. The PCM agency submitted an OT report which indicated that the appellant required maximum assistance with all IADLs. (Ex. 5, p. 9).
5. In addition to requesting time for PCA assistance with other ADLs and IADLs, the PCM agency requested 60 minutes *per* week of PCA assistance with laundry, stating that the appellant was dependent for all laundry and the laundry was residential. (Ex. 5, p. 27).
6. Based on the PCM agency's submission, MassHealth made seven modifications to the time requested for bathing, dressing, undressing, meal preparation, housekeeping, laundry, and shopping. (Ex. 1; Ex. 2, pp. 3-5; Ex. 5, pp. 4-6).
7. MassHealth approved a total of 11 hours, 30 minutes per week of day and evening PCA services for dates of service from January 10, 2023 through January 9, 2024. (Ex. 1; Ex. 2, pp. 3-5; Ex. 5, pp. 4-6).
8. During the course of the hearing, the appellant and her representative accepted the modification MassHealth made to bathing. (Testimony of the appellant's representative; Testimony of the appellant).
9. After considering the appellant's testimony, the MassHealth representative decided to amend the modifications to and increase the time allotted for dressing and meal preparation, which the appellant accepted. (Testimony of the MassHealth representative; Testimony of the appellant).
10. The MassHealth representative overturned modifications to undressing, housekeeping, and shopping, and approved the time as requested. (Testimony of the MassHealth representative).
11. The PCM agency requested 60 minute *per* week for laundry, stating that the appellant was dependent for all laundry and the laundry was residential. (Ex. 5, p. 27).

12. MassHealth modified this to 30 minutes *per week*. (See Ex. 1; Ex. 2, pp. 3-5; Ex. 5, pp. 4-6).
13. According to the time for task tool MassHealth uses to determine the time to complete activities, 30 minutes would be enough time for there to be two loads of laundry for one person. (Testimony of the MassHealth representative).
14. This time represents the active part of completing the laundry, and does not include the time the laundry actually is in the washer or dryer – i.e. it includes the time for bringing the laundry to the washer, loading the washer, unloading the washer into the dryer, unloading the dryer, folding, and putting away. (Testimony of the MassHealth representative).
15. The appellant generally has four loads of laundry *per week*, which includes her clothing, towels, bed sheets, and blankets. (Testimony of the appellant).
16. The appellant tends to spill a lot of food on herself. (Testimony of the appellant).

Analysis and Conclusions of Law

MassHealth may make an adjustment in the matters at issue before or during an appeal period. (130 CMR 610.051(B)). If the parties' adjustment resolves one or more of the issues in dispute in favor of the appellant, the hearing officer, by written order, may dismiss the appeal in accordance with 130 CMR 610.035 as to all resolved issues, noting as the reason for such dismissal that the parties have reached agreement in favor of the appellant. (*Id.*). After considering the appellant's representative's testimony, the MassHealth representative amended the modifications to and increasing the time allotted for dressing and meal preparation, which the appellant accepted. The MassHealth representative also overturned the modifications to undressing, housekeeping, and shopping, and approved the times as requested. The appellant agreed to the modification to the time requested for bathing. Regarding these three ADLs and four IADL's the appeal is DISMISSED.

The PCM agency must request prior authorization from the MassHealth agency as a prerequisite to payment for PCA services. (130 CMR 422.416(A)). Prior authorization determines only the medical necessity of the authorized service. (*Id.*). MassHealth covers activity time performed by a PCA in providing assistance with activities of daily living (ADLs) and IADLs. (130 CMR 422.411(A)). IADLs are those specific activities that are instrumental to the care of the member's health and are performed by a PCA and 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. (130 CMR 422.402; 422.410(B)).

The appellant has shown by a preponderance of the evidence that she requires 60 minutes *per* week of PCA assistance with laundry. The PCM agency's submission states that the appellant has limb and muscle weakness in upper extremities. The OT report the PCM agency submitted with the PA request states that the appellant requires maximum assistance with all IADLs, including laundry. The appellant testified that she generates four loads of laundry *per* week. The appellant stated that she tends to spill food on herself, which appears to be the direct result of her medical condition. MassHealth established that one load of laundry should take 15 minutes. Based on these facts, the 60 minutes *per* week requested for laundry is both reasonable and medically necessary.

For the above stated reasons, the appeal is APPROVED IN PART.

Order for MassHealth

Authorize 60 minutes *per* week for laundry. Implement all other changes agreed upon in the hearing.

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.

Scott Bernard
Hearing Officer
Board of Hearings

cc:

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

[REDACTED]