

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2301006
Decision Date:	3/24/2023	Hearing Date:	03/15/2023
Hearing Officer:	Christine Therrien		

Appearance for Appellant:



Appearance for Optum MassHealth:
Donna Burns, RN



*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:	Denied	Issue:	PCA
Decision Date:	3/24/2023	Hearing Date:	03/15/2023
Optum MassHealth's Rep.:	Donna Burns, RN	Appellant's Rep.:	Mother and Father
Hearing Location:	Quincy - Telephonic		

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 12/16/22, MassHealth modified the appellant's Prior Authorization (PA) request for MassHealth Personal Care Attendant (PCA) benefits because MassHealth determined the services were not medically necessary. (130 CMR 410.303, 130 CMR 410.204, and Exhibit 1). The appellant filed this appeal in a timely manner on 2/7/23. (130 CMR 610.015(B) and Exhibit 2). Denial of assistance is a valid ground for appeal. (130 CMR 610.032).

Action Taken by Optum MassHealth

MassHealth modified the appellant's request for PCA services.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 422.410, 422.412, and 450.204, in modifying the appellant's PA request for PCA services.

Summary of Evidence

The Optum MassHealth representative testified a request for 15 hours and 15 minutes of day/evening hours per week and 2 nighttime hours per day of PCA services was received on behalf of the appellant dated 12/2/22. The Optum MassHealth representative testified that the PA request was modified on 12/16/22 to 13 hours and 30 minutes of day/evening hours per week and 2 nighttime hours per day.

The appellant is 19 years old and is diagnosed with autism. The appellant lives with her parents. The Optum MassHealth representative stated modifications were made to the appellant's request for Activities of Daily Living (ADLs): feeding assistance, and menses care. The Optum MassHealth representative testified the appellant requested 10 minutes, 2 times per day for 5 school days each week, and 10 minutes, 2 times per day for 2 weekend days per week for feeding assistance. MassHealth modified this request to 5 minutes for each instance because the PCA program only covers time for hands-on care and not for cueing or supervision. The Optum MassHealth representative testified that the documentation submitted indicates the appellant can feed herself and the time requested is for making sure the appellant does not over-stuff her mouth and choke. (Exhibit 4, p. 16). The Optum MassHealth representative testified the appellant requested 53 minutes per week for menses care. MassHealth modified this request to 27 minutes per week because the time requested is longer than ordinarily required for someone who requires full assistance. The Optum MassHealth representative testified that 27 minutes per week equals 108 minutes per month or 15 minutes per day for 7 days a month. The Optum MassHealth representative testified that the appellant was given 20 minutes per week for menses care in her previous PA. All the requested time for bladder and bowel care and bathing was approved for this PA. (Exhibit 4, pp. 13 & 16).

The appellant's mother testified that the appellant needs someone to watch her eat because she stuffs food in her mouth and could choke. The appellant's mother testified that the appellant has her period for 7 days each month and cannot change her menstrual pads herself. The appellant's mother stated that she does not approve of the reduced hours and said she needs time for shopping and housekeeping. Time for these tasks was not requested in the PA. (Exhibit 4, pp. 23-25).

Findings of Fact

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

1. On 12/2/22, a PA request for 15 hours and 15 minutes of day/evening hours per week and 2 nighttime hours per day of PCA services was submitted on behalf of the appellant.
2. On 12/16/22, the PA request was modified to 13 hours and 30 minutes of day/evening hours per week and 2 nighttime hours per day.
3. The appellant is 19 years old and is diagnosed with autism. The appellant lives with her parents.
4. Modifications were made to the appellant's request for ADLs: feeding assistance and menses care.
5. The appellant requested feeding assistance for 10 minutes, 2 times per day for 5 school days each week, and 10 minutes, 2 times per day for 2 weekend days per week.
6. MassHealth modified this request to 5 minutes for each instance because the PCA program only covers time for hands-on care and not for cueing or supervision.
7. The documentation submitted indicates the appellant can feed herself and the time requested is

for making sure the appellant does not overstuff her mouth and choke.

8. The appellant requested 53 minutes per week for menses care.
9. MassHealth modified this request to 27 minutes per week because the time requested is longer than ordinarily required for someone who requires full assistance. 27 minutes per week equals 108 minutes per month or 15 minutes per day for 7 days a month.
10. The appellant was given 20 minutes per week for menses care in her previous PA. All the requested time for bladder and bowel care and bathing was approved for this PA.

Analysis and Conclusions of Law

MassHealth covers personal care services provided to eligible MassHealth members who can be appropriately cared for in the home when all the following conditions are met:

- (1) The personal care services are prescribed by a physician or a nurse practitioner who is responsible for the oversight of the member's health care.
- (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 personal care agency, requires physical assistance with two or more of the following ADLs as defined in 130 CMR 422.410(A):
 - (a) mobility, including transfers;
 - (b) medications;
 - (c) bathing or grooming;
 - (d) dressing or undressing;
 - (e) range-of-motion exercises;
 - (f) eating; and
 - (g) toileting.
- (4) The Division has determined that the PCA services are medically necessary and has granted a prior authorization for PCA services.

130 CMR 422.403(C).

MassHealth will pay for PCA services provided to MassHealth members who can be appropriately cared for in the home. (130 CMR 422.401 et seq.). The member must require physical assistance. The personal care agency determines the extent of the personal care services provided by a paid PCA. (130 CMR 422.403). Personal care services consist of physical assistance with activities of daily living (ADLs) (130 CMR 422.410(A)).

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

- (A) Activities of Daily Living. 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 or 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.

The requested services must also be medically necessary for prior authorization to be approved. MassHealth will not pay a provider for services that are not medically necessary and may impose sanctions on a provider for providing or prescribing a service or for admitting a member to an inpatient facility where such service or admission is not medically necessary.

(A) A service is “medically necessary” if:

- (1) it is reasonably calculated to prevent, diagnose, prevent 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 MassHealth. Services that are less costly to MassHealth include, but are not limited to, health care reasonably known by the provider or identified by MassHealth 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.

130 CMR 450.204

The appellant requested 10 minutes, 2 times per day for 5 school days each week, and 10 minutes, 2 times per day for 2 weekend days per week for feeding assistance. MassHealth modified this request to 5 minutes for each instance. Per 130 CMR 422.410(A)(6) the PCA program only covers time for “physically assisting a member to eat” and not for supervision to prevent the shoveling of food. For this reason, the appeal for feeding assistance is DENIED.

The appellant requested 53 minutes per week for menses care.¹ MassHealth modified this request to 27 minutes per week which equals 15 minutes per day for 7 days a month because the time requested is longer than ordinarily required for someone needing full assistance. The Optum MassHealth

¹ This equates to 30 minutes per day for 7 days per month.

representative testified that the appellant was given 20 minutes per week for menses care in her previous PA.² The appellant's mother did not testify as to why menses care would require more than 15 minutes a day other than to say the appellant needed assistance with changing her menstrual pads. Since all the requested time for bladder and bowel care and bathing was approved for this PA the addition of 15 minutes per day to change a menstrual pad is adequate. The appeal for menses 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.

Christine Therrien
Hearing Officer
Board of Hearings

cc:

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

² This equates to 11 minutes per day for 7 days per month.