

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision: Approved in Part;
Remanded

Appeal Number: 2301582

Decision Date: 5/25/2023

Hearing Date: 03/27/2023

Hearing Officer: Rebecca Brochstein

Appearances for Appellant:

[Redacted], Appellant
[Redacted], Advocate

Appearances for MassHealth:

Donna Burns, RN



*Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
Board of Hearings
100 Hancock Street
Quincy, MA 02171*

APPEAL DECISION

Appeal Decision:	Approved in Part; Remanded	Issue:	Prior Approval (PCA Services)
Decision Date:	5/25/2023	Hearing Date:	03/27/2023
MassHealth's Rep.:	Donna Burns, RN	Appellant's Reps:	Appellant [REDACTED]
Hearing Location:	Board of Hearings (Remote)		

Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapters 118E and 30A, and the rules and regulations promulgated thereunder.

Jurisdiction

Through a notice dated February 9, 2023, MassHealth denied the appellant's prior authorization (PA) request for personal care attendant (PCA) services (Exhibit 1). The appellant filed this appeal in a timely manner on February 28, 2023 CMR 610.015(B); Exhibit 2). Denial of a request for PCA services is a valid basis for appeal (130 CMR 610.032, 422.417(B)(2)).

Action Taken by MassHealth

MassHealth denied the appellant's request for PCA services.

Issue

The appeal issue is whether the appellant qualifies for PCA services under MassHealth regulations.

Summary of Evidence

The MassHealth representative, who is a registered nurse, testified that the appellant is a male in his early 30s with diagnoses that include obsessive-compulsive disorder, post-traumatic stress disorder, generalized anxiety disorder, and attention deficit hyperactivity disorder. On January 24, 2023, MassHealth received an initial evaluation and prior authorization (PA) request for PCA services for the appellant in the amount of 25 hours and 15 minutes per week. Assistance was requested for four activities of daily living (bathing, grooming, dressing, and undressing), and for four instrumental activities of daily living (meal preparation, laundry, housekeeping, and shopping). See Exhibit 4 at 15-26.

The PCA evaluation states that the appellant requires assistance in the following activities of daily living:

- Bathing: “Physical assist with showering activity, including routine transfers. . . . PCA to assist consumer with gathering supplies and washing, rinsing drying and skin care. Unable to initiate or complete task due to mental health issues. Last shower taken was on 8/31/2021. Hair will be washed alongside body in shower.” Time requested was 45 minutes per day.
- Grooming: “PCA to assist consumer with all nail and hair care. Unable to initiate or follow through with completing task due to mental health issues.” Time requested was ten minutes, once per week, for nail care; and ten minutes per day for hair care.
- Dressing/Undressing: “PCA to assist with gathering clothes and all dressing and undressing. PCA assists with entire task due to mental health issues.” Time requested was 23 minutes per day for dressing, and 15 minutes per day for undressing.

The MassHealth representative testified that MassHealth reviewed and denied the request for prior authorization for PCA services because it determined the appellant does not require assistance with two or more activities of daily living. She testified that the clinical record indicates the appellant has sufficient functional ability to perform his ADLs without assistance. She added that some of the appellant’s needs are in the nature of social services or vocational rehabilitation, which are not covered PCA services. On February 9, 2023, MassHealth denied the prior authorization request in full. See Exhibit 1.

The appellant appeared at the hearing with an advocate from the Boston Center for Independent Living. He testified at length to the impact of his mental health conditions on his ability to manage his own activities of daily living. He stated that the last time he was able to bathe himself without assistance was in September 2020; thereafter, due to “emergent conditions,” he was only able to take a shower if someone was there to assist him. He testified that he had a friend who agreed to assist him with bathing and washing his hair; this person helped him with bathing, grooming, and dressing several times over a two-month period, but then stopped providing assistance. The appellant testified that his last shower (which was with the friend’s assistance) was on August 31,

2021.

The appellant testified that when he has tried to shower on his own, he suffers debilitating symptoms such as urinating and defecating on himself, engaging in repetitive actions, finding himself unable to move for hours, and avoiding eating or drinking for two or three days at a time. He stated that because of these reactions he fears trying to bathe himself. He testified that he needs a PCA to physically wash and scrub him, dry him off, and apply ointments to his skin.

The appellant testified that he is also unable to dress himself without assistance; he stated that he last changed his clothes in October 2022 (and did so with assistance at that time). He stated that he has repeatedly soiled himself but feels too overwhelmed to change his clothes. He also described wearing “thermals” through a summer of 90-degree days, and no air conditioning, because he could not bring himself to undress. In October 2022, he changed into a t-shirt and pants with a neighbor’s assistance, and has been wearing these clothes since then. The appellant added that he found himself unable to turn on the heat in the winter, even though he could not feel his feet or hands, because he feared “things coming out of the radiator.”

The appellant testified that he similarly cannot handle his own grooming tasks. He stated that he cannot wash his face or manage his hair, which has become matted and oily due to his inability to shower. He testified that the dirt and buildup from his hair and face gets into his eyes and “burns,” leaving him concerned about his vision. The appellant stated that he is unable to use nail clippers, and that his fingernails and toenails are in “terrible condition” and have a bad odor. He stated that he “peels off” his nails when they get too long.

The appellant testified that he takes care of tasks like making phone calls and sending emails early in the day, but that he becomes less and less functional as the day progresses. He stated that he has tried to do all that is within his power to help himself, but that he has continued to get worse. The appellant stated that there is no way his condition will change until he has someone who can help him to perform basic daily tasks such as bathing and changing his clothes. He stated that he is desperate not to live like this anymore and to reconnect with family members he has not seen in years. He added that he has a therapist and a primary care physician, and has been referred for services through the Department of Mental Health.

The appellant submitted supporting documentation from two of his providers, in addition to a psychological assessment report. The letter from a clinical psychologist at Boston Medical Center, who completed the psychological assessment, states as follows:

I am a licensed clinical psychologist at Boston Medical Center (BMC). I completed an in depth psychological assessment (11.5 hours of direct assessment with [appellant] + an interview with his primary care provider) between July and September 2022. It is my clinical opinion that [appellant] is currently unable to adequately bathe and groom himself or prepare his own meals due to the severity of his Obsessive Compulsive Disorder (OCD) and Post-traumatic Stress Disorder (PTSD). At my recommendation, he is currently pursuing [sic] psychopharmacological and psychotherapeutic treatment for this disorder at BMC.

Nonetheless, until his condition substantially improves, which will be several months, he continues to lack the ability to engage in these critical activities of daily living (bathing, dressing/undressing, grooming, meal preparation), making PCA services for these activities medically necessary. At the time I concluded my assessment, [appellant] had been unable to shower in more than one year. Services from a PCA for this interim period will be critical in helping him to establish healthy grooming and eating behaviors. I have full confidence that this service will be time limited with the appropriate psychological and psychiatric treatment to which he is now connected. (Exhibit 6)

The second letter, from a nurse practitioner at his primary care practice, states in relevant part as follows:

[Appellant's] conditions have severely impacted his ability to perform independent activities of daily living including: bathing, dressing/undressing, grooming. In addition, his conditions have severely limited other important parts of every day living such as meal preparation, laundry and cleaning/maintaining his home.

We are requesting home services, specifically a Personal Care Attendant (PCA) to assist him with bathing, dressing/undressing, grooming, grocery shopping, laundry, meal preparation, and light housekeeping. The services are medically necessary.

While [appellant] is not physically disabled, his mental health conditions prevent him from functioning independently at present. He has not showered/bathed in the last 18 months. Poor personal hygiene can lead to dermatologic conditions and impact his overall health. We are hopeful that assistance of a PCA for grooming, dressing/undressing, bathing, combined with his mental health treatment, will help [him] to become more functional in terms of self-care and independent living. (Exhibit 7)

Findings of Fact

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

1. The appellant is a male in his 30s with diagnoses that include obsessive-compulsive disorder, post-traumatic stress disorder, generalized anxiety disorder, and attention deficit hyperactivity disorder.
2. On January 24, 2023, MassHealth received an initial evaluation and prior authorization request for PCA services for the appellant in the amount of 25 hours and 15 minutes per week.
3. The request was for assistance with four ADLs (shower, general grooming, dressing, and undressing) and three IADLs (meal preparation, laundry, housekeeping, and shopping).
4. The PCA agency requested assistance with bathing in the amount of 45 minutes per day.

- a. The PCA evaluation states that the appellant is unable to initiate or complete bathing tasks due to his mental health condition, and that he requires physical assistance with gathering supplies, washing, rinsing, drying off, and applying skin ointments.
 - b. The appellant has not bathed since August 31, 2021. He has not bathed independently since September 2020.
 - c. When the appellant tries to bathe on his own, he suffers debilitating symptoms such as urinating and defecating on himself, engaging in repetitive behaviors, staying in the same position for hours, and avoiding eating or drinking for two or three days at a time.
 - d. The appellant requires physical assistance to bathe.
5. In the area of grooming, the PCA agency requested PCA assistance of ten minutes, once per week, for nail care; and ten minutes per day for hair care.
- a. The PCA evaluation states that the appellant is unable to initiate or follow through on grooming tasks (nail and hair care) due to mental health issues.
 - b. The appellant cannot independently wash his face or manage his hair, which has become matted and oily due to his inability to shower.
 - c. The appellant cannot independently use nail clippers.
 - d. The appellant requires physical assistance with the grooming tasks of nail and hair care.
6. The agency requested PCA time of 23 minutes per day for dressing, and 15 minutes per day for undressing.
- a. The PCA evaluation states that the appellant needs physical assistance to dress and undress due to mental health issues.
 - b. The appellant last changed his clothes (with assistance) in October 2022.
 - c. Prior to this clothing change, he wore “thermals” through a summer of 90-degree days and no air conditioning because of his inability to independently change his clothes.
 - d. The appellant has repeatedly soiled himself but feels too overwhelmed to change into different clothes.

- e. The appellant requires physical assistance with dressing and undressing.

Analysis and Conclusions of Law

Regulations concerning Personal Care Attendant (PCA) Services are found at 130 CMR 422.000, et seq. PCA services are physical assistance with activities of daily living (ADLs) and instrumental activities of daily living (IADLs), as described in 130 CMR 422.410. 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 of 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.

Under 130 CMR 422.410, 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 bathing, personal hygiene, or grooming;
- (4) dressing: 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.

MassHealth denied the appellant's PA request for PCA services because it determined that he does not require assistance with a minimum of two ADLs as set forth above, as he has the functional ability to complete his ADLs independently. The appellant maintains that his mental health conditions prevent him from taking care of his basic needs, and that he does in fact meet the criteria for PCA assistance.

MassHealth's determination rests on the premise that to qualify for PCA services, an individual must have *physical* impairments that affect his or her ability to complete activities of daily living. But the agency has not pointed to any such requirement in the regulations. As set forth above, these provisions state only that the disability must be "permanent or chronic in nature" and impair the individual's ability to perform ADLs and IADLs without physical assistance.¹ The regulations do not limit eligibility to those with physical disabilities. Accordingly, the appellant may still qualify for PCA services even though the condition that creates the need for assistance is entirely psychological.

Here, the appellant has offered persuasive, detailed evidence that his OCD and other mental health conditions prevent him from even attempting to perform the most basic self-care tasks of showering, caring for his hair, cutting his nails, and changing his clothes. That he has not bathed in over a year and a half, and has not changed his clothes in more than six months, underscores the extreme nature of his impairment.² Importantly, the record also indicates that he has been able to accomplish these activities in the past with hands-on assistance from a companion—suggesting that PCA services would be an effective intervention for him.

The record supports the appellant's contention that he requires assistance with at least two activities of daily living; as such, he meets the threshold for participation in the PCA program. This appeal is **approved in part and remanded** for MassHealth to reconsider the prior authorization request in accordance with this decision.

Order for MassHealth

Within ten days of the date of this notice, reconsider the appellant's prior authorization request for PCA services in accordance with this decision. Notify the appellant and his appeal representative of the new determination.

¹ MassHealth did not argue that the appellant's condition is not permanent or chronic in nature.

² These tasks are all activities of daily living; they are not in the nature of "social services" or "vocational rehabilitation," as MassHealth's notice suggested as an alternative basis of denial.

Implementation of this Decision

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

Rebecca Brochstein
Hearing Officer
Board of Hearings

cc: Optum

