


# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2301785
<b>Decision Date:</b>	5/19/2023	<b>Hearing Date:</b>	4/6/2023
<b>Hearing Officer:</b>	Patrick Grogan	<b>Record Open to:</b>	N/A

**Appearance for Appellant:**

, Daughter/Proxy  
, Son-in-law

**Appearance for Senior Care Organization  
(SCO):**

Dr. Cheryl Ellis, Medical Director  
UnitedHealthcare, Senior Care Options

**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

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Prior Authorization, PCA Services
<b>Decision Date:</b>	5/19/2023	<b>Hearing Date:</b>	4/6/2023
<b>MassHealth's Rep.:</b>	Dr. Cheryl Ellis	<b>Appellant's Rep.:</b>	
<b>Hearing Location:</b>	Remote (Tel)	<b>Aid Pending:</b>	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 July 18, 2022, UnitedHealthcare (UHC), a MassHealth Senior Care Organization (SCO), modified the Appellant's prior authorization (PA) request for personal care attendant (PCA) services from the requested 49.5 day hours and 14 night hours per week to 33.5 day hours and 14 night hours per week because UHC determined that time requested for assistance with certain activities did not meet MassHealth's or UCH's requirements for prior authorization. (See 130 CMR 422.403, 130 CMR 422.410, 130 CMR 450.204, Exhibit 1, Testimony). The Appellant appealed through the internal UHC process, and through a notice dated November 22, 2022, UHC denied the Appellant's internal UHC appeal. (See 130 CMR 422.403, 130 CMR 422.410, 130 CMR 450.204, Exhibit 2, Testimony). Modification of a prior authorization request for PCA services is valid grounds for appeal (see 130 CMR 610.032).

### Action Taken by UnitedHealthcare

UHC modified the Appellant's prior authorization request for PCA services from the requested 49.5 day hours and 14 night hours per week to 33.5 day hours and 14 night hours per week.

## Issue

The appeal issue is whether UHC was correct, pursuant to 130 CMR 422.403, 130 CMR 422.410, and 130 CMR 450.204, in modifying the Appellant's request for PCA services.

## Summary of Evidence

The Appellant is a MassHealth member who is over 65 years of age. (Exhibit 3, Exhibit 8, Testimony) The Appellant was represented by her caregiver/daughter/healthcare proxy. UHC was represented by the doctor who serves as the Medical Director, UnitedHealthcare, Senior Care Options. UHC testified that the Appellant's primary diagnoses include Alzheimer's disease, vascular dementia without behavior disturbance, and type II diabetes. (Exhibit 8, pg. 344, Testimony). Additional diagnoses include anxiety disorder, gastro-esophageal reflux disease, chronic atrial fibrillation, hypertensive heart disease with heart failure, osteoarthritis, and urinary incontinence (among other diagnoses). (Exhibit 8, pg. 344, Testimony). The Appellant UHC, Senior Care Options in January of 2016. (Testimony). On July 5, 2022, an in-home functional assessment was conducted by a UHC nurse. (Exhibit 8, pgs. 344-353, Testimony) During the in-home assessment that UHC nurse observed the Appellant's Activities of Daily Living (ADL) as well as her Instrumental Activities of Daily Living (IADL). The Appellant had requested 49.5 day, and 14 night PCA hours. (Exhibit 8, pg. 1, Testimony) Based upon the UHC nurse's observations of the Appellant, the Appellant was approved for 33.5 day hours and 14 night hours of PCA services. (Testimony, Exhibit 1, Exhibit 2, Exhibit 8, p. 344-353)

On July 15, 2022, the medical director reviewed the Appellant's medical records and the governing regulation, 130 CMR 422 for PCA services. (Testimony) Additionally, the medical director noted that the times requested were in excess of the times ordinarily required for an individual with the Appellant's specific needs. There were 7 modifications made to the ADLs, including 2 modifications that resulted in more time designated to the Appellant and 5 modifications that resulted in reduction in time designated to the Appellant. (Testimony). Additionally, 6 IADLS were modified, all with reductions. (Testimony)

The July 5, 2022 assessment was compared with the last in-person assessment, which was dated June 18, 2019. (Testimony) During the COVID pandemic, no in-person reevaluations (functional assessments) were conducted. (Testimony) UHC testified that reevaluations (functional assessments) were conducted telephonically, and despite these telephonic assessments indicating that the Appellant should receive a decrease in PCA hours, no changes were made to the prior approved PCA hours until an in-person functional assessment was conducted. (Testimony).

Beginning with the ADLs, the medical director testified that Appellant required maximum aid with bed mobility (Bed Repositioning) and PCA hours were allocated at 130 minutes per week (The medical director noted that the June 18, 2019 assessment resulted in no time allocated for Bed

Repositioning. (Testimony, Exhibit 8, pg. 345)

Next, the medical director testified regarding Walking/Ambulation, the member had total dependance, and that 35 minutes per week had been approved. (Testimony, Exhibit 8, pg. 346) In addition to this testimony, the submission by the medical director includes an allotment of 55 minutes per week for Walking/Ambulation outside of the home. (Exhibit 8, pg.346).

Next, the medical director testified that the member exhibited the need for total assistance for Transfers, and 140 minutes were allocated for PCA services for Transfers. (Testimony, Exhibit 8, pg. 346) The medical director noted that the it was reported that the Appellant required aid with transfer and required help with support to her waist. (Testimony)

Next, the medical director testified that the member displayed total dependence with Bathing as well as Bathing (transfers). (Testimony) Here, the medical director testified that the Appellant required more time than was requested, and an increase with a total of 410 minutes was allocated for Bathing and Bathing (transfers). (Testimony, Exhibit 8, pg. 346-347). UHC's submission allocates 270 minutes per week for aid with upper and lower body bathing, as well as 140 minutes per week of aid with transfer within the shower/tub. (Exhibit 8, pg. 346-347).

Continuing testimony regarding ADLs, the medical director testified that in regard to Personal Hygiene and grooming, including hair care, the Appellant requires maximum aid. (Testimony) Pursuant to the submission, UHC allocated 70 minutes per week for Hair and 70 minutes per week for Personal Hygiene. (Exhibit 8, pg. 347).

In the area of Dressing/Undressing, the medical director testified that the review focuses on both the upper body and lower body. (Testimony). Once again, the Appellant exhibited total dependance in the area of Dressing/Undressing. (Testimony). Pursuant to the submission, UHC allocated 70 minutes per week for Dressing/Undressing (Upper Body) and 70 minutes per week for Dressing/Undressing (Lower Body). (Exhibit 8, pg. 347-348).

In the area of Eating, the director testified that UHC increased the time beyond what had been allocated in the past. (Testimony) The medical director testified that the Appellant required maximum assistance and that 210 minutes had been allocated based upon the observations made during the July 2022 assessment. (Testimony, Exhibit 8, pg.348)

Regarding the ADL of Toileting, the medical director testified that the Appellant exhibited total dependence. (Testimony). The UHC submission allocated a total of 170 minutes per week including night hours, for assistance with Toileting. (Exhibit 8, pg. 348)

Regarding Medication, the medical director testified that the Appellant exhibited great difficulty with Medication administration. (Testimony). The UHC submission allocated 150 minutes for Medication assistance. (Exhibit 8, pg. 349)

The medical director also testified about the allocation of time for IADLs. (Testimony) Regarding Meal Preparation, the UHC submission allotted 25 minutes per week for snack every day, 35 minutes per week for breakfast each day, 30 minutes per week for 2 lunches per week<sup>1</sup>, and 105 minutes for dinner every day. (Exhibit 8, pg. 349-350) Regarding the IADL of Laundry, the UHC submission allotted 75 minutes per week for Laundry. (Exhibit 8, pg. 350) Regarding Housekeeping, the UHC submissions allotted 90 minutes per week. (Exhibit 8, pg. 350) Regarding Shopping, the UHC submission allotted 40 minutes per week for shopping. (Exhibit 8 pg. 351) Additionally, the UHC submission allotted 30 minutes for aid with utilizing the telephone. (Exhibit 8, pg. 351)

The final IADL covered Medical Appointments. (Exhibit 8, pg. 351). The medical director testified that this IADL is calculated based upon allocations of minutes per week for the number of appointments per year. Pursuant to the UHC submission, the Appellant was allocated 35 minutes per week based upon 12 appointments. (Exhibit 8, pg. 351)

Once the medical director testified, the Appellant offered testimony through her caregiver/daughter/healthcare proxy and her son-in-law. (Testimony). The Appellant's son-in-law testified that the Appellant had received 63.5 hours of PCA services in the past. (Testimony). The Appellant's son-in-law testified that he did not understand how someone whose needs for PCA hours increased, would then receive a decrease in PCA hours. (Testimony). The medical director explained that the Appellant had not received an in-person assessment for years due to them being conducted telephonically during the pandemic. (Testimony)

The Appellant's son-in-law read Exhibit 7, a letter from the Appellant's primary care physician, into the record. (Testimony) The Appellant's primary care physician indicated that the son-in-law and caregiver/daughter/healthcare proxy were providing 24 hours care to the Appellant. (Testimony, Exhibit 7) The conclusion of the primary care physician's letter sought an increase to at least 62 hours of PCA services. (Testimony, Exhibit 7) In response, the medical director noted that no specific information regarding time for tasks for either ADLs or IADLs was included in the primary care physicians letter. (Testimony) The caregiver/daughter/healthcare proxy testified that they were not considering how long tasks took, how much time or hours were required for tasks. (Testimony) The Appellant's caregiver/daughter/healthcare proxy testified that sometimes there were incontinence issues that required additional help, including additional changings and laundry. (Testimony) The Appellant's caregiver/daughter/healthcare proxy testified that the Appellant required someone to be with her constantly. The medical director responded that the health plan does not provide 24/7 PCA services. (Testimony)

The Appellant's caregiver/daughter/healthcare proxy and son-in-law testified that minutes

---

<sup>1</sup> The Record indicates the Appellant receives 5 lunches per week in Section 16 of the Functional Assessment. (See Exhibit 8, pg. 349)

calculated by UHC do not take into account other times there are issues, specifically, other times where the Appellant may need to be changed due to incontinence issues. (Testimony). The medical director responded that the PCA services are allocated based upon the observations and calculations of minutes required for tasks. (Testimony) The medical director testified that anticipatory time for issues that may arise is not allocated for PCA services. (Testimony) The Appellant's caregiver/daughter/healthcare proxy retorted that the Appellant was often incontinent because of her memory issues. (Testimony). The Appellant offered no testimony regarding specific times required for tasks or how the incontinence issues requiring changing of Appellant's adult diapers were incorporated within the time previously allocated for toileting, for example.

The Appellant's caregiver/daughter/healthcare proxy and son-in-law testified that an additional assessment had been scheduled for March, apparently based upon the Appellant's caregiver/daughter/healthcare proxy and son-in-law's report that the Appellant's needs had increased. (Testimony). The assessment had been cancelled due to an illness within the household and has yet to be rescheduled. (Testimony) The medical director stated that the instant appeal is based upon the assessment from July of 2022, nearly a year ago, and a reassessment may address an increased need for PCA services and hours exhibited by the Appellant. (Testimony)

## **Findings of Fact**

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

1. The Appellant is a MassHealth member who is over 65 years of age. (Exhibit 3, Exhibit 8, Testimony)
2. the Appellant's primary diagnoses include Alzheimer's disease, vascular dementia without behavior disturbance, and type II diabetes. (Exhibit 8, pg. 344, Testimony)
3. On July 5, 2022, an in-home functional assessment was conducted by a UHC nurse. (Exhibit 8, pgs. 344-353, Testimony)
4. During the in-home assessment that UHC nurse observed the Appellant's Activities of Daily Living (ADL) as well as her Instrumental Activities of Daily Living (IADL). Based upon the UHC nurse's observations of the Appellant, the Appellant was approved for 33.5 day hours and 14 night hours of PCA services. (Testimony, Exhibit 1, Exhibit 2, Exhibit 8, p. 344-353)
5. Regarding Bed Repositioning, the Appellant required maximum aid, and UHC allotted 130 minutes per week. (Testimony, Exhibit 8, pg. 345) The medical director noted that no time had been allotted for this task in the June 2019 functional assessment. (Testimony)

6. Regarding Walking/Ambulation, the Appellant exhibited total dependance, and UHC allotted 35 minutes (in the home) and 55 minutes (outside the home) per week. (Exhibit 9, pg. 346)
7. Regarding Transfers, the Appellant exhibited the need for total assistance, and UHC allotted 140 minutes per week. (Testimony, Exhibit 8. pg.346)
8. Regarding Bathing, the Appellant displayed total dependance and UHC allocated 270 minutes per week for aid with upper and lower body bathing, as well as 140 minutes per week for aid with transfer within the shower/tub. (Exhibit 8, pg. 346-347).
9. In regard to Personal Hygiene and grooming, including hair care, the Appellant requires maximum aid. (Testimony) Pursuant to the submission, UHC allocated 70 minutes per week for Hair and 70 minutes per week for Personal Hygiene. (Exhibit 8, pg. 347).
10. In the area of Dressing/Undressing, once again, the Appellant exhibited total dependance. (Testimony). UHC allocated 70 minutes per week for Dressing/Undressing (Upper Body) and 70 minutes per week for Dressing/Undressing (Lower Body). (Exhibit 8, pg. 347-348).
11. In the area of Eating, the director testified that UHC increased the time beyond what had been allocated in the past. (Testimony) The Appellant required maximum assistance and that 210 minutes had been allocated based upon the observations made during the July 2022 assessment. (Testimony, Exhibit 8, pg.348)
12. Regarding the ADL of Toileting, the Appellant exhibited total dependence. (Testimony). UHC allocated a total of 170 minutes per week including night hours, for assistance with Toileting. (Exhibit 8, pg. 348)
13. Regarding Medication, the Appellant exhibited great difficulty with Medication administration. (Testimony). UHC allocated 150 minutes for Medication assistance. (Exhibit 8, pg. 349)
14. Regarding IADLs, the first addressed was Meal Preparation and UHC allotted 25 minutes per week for snack every day, 35 minutes per week for breakfast each day, 30 minutes per week for lunch two times a week, and 105 minutes for dinner every day. (Exhibit 8, pg. 349-350)
15. Regarding the IADL of Laundry, UHC allotted 75 minutes per week for Laundry. (Exhibit 8, pg. 350)
16. Regarding the IADL of Housekeeping, UHC allotted 90 minutes per week. (Exhibit 8, pg. 350)
17. Regarding the IADL of Shopping, UHC allotted 40 minutes per week for shopping. (Exhibit 8 pg. 351)

18. Additionally, UHC allotted 30 minutes for aid with utilizing the telephone. (Exhibit 8, pg. 351)

19. The final IADL addressed Medical Appointments. (Exhibit 8, pg. 351). The medical director testified that this IADL is calculated based upon allocations of minutes per week for the number of appointments per year. Pursuant to the UHC submission, the Appellant was allocated 35 minutes per week based upon 12 appointments. (Exhibit 8, pg. 351)

## **Analysis and Conclusions of Law**

The process for seeking personal care attendant services through a Senior Care Organization (SCO), is delineated within the Regulations. A Senior Care Organization, is defined in 130 CMR 610.004:

Senior Care Organization (SCO) – a managed care organization that participates in MassHealth under a contract with the MassHealth agency to provide coordinated care and medical services through a comprehensive network to eligible members 65 years of age or older. SCOs are responsible for providing enrolled members with the full continuum of Medicare- and MassHealth-covered services. (130 CMR 610.004)

The process for obtaining services through an SCO, such as UnitedHealthcare, is outlined in 130 CMR 508.008(C):

Obtaining Services When Enrolled in a SCO. When a member chooses to enroll in a senior care organization (SCO) in accordance with the requirements under 130 CMR 508.008, 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. Upon enrollment, each SCO is required to provide evidence of its coverage, including a complete list of participating providers, the range of available covered services, what to do for emergency conditions and urgent care needs, and how to obtain access to covered services such as specialty, behavioral health, and long-term-care services. (130 CMR 508.008(C))

Members enrolled in a managed care contractor have a right to request a fair hearing for any of the following actions or inactions by the managed care contractor, provided the member has exhausted all remedies available through the managed care contractor's internal appeals process (except where a member is notified by the managed care contractor that exhaustion is unnecessary):



(2) a decision to deny or provide limited authorization of a requested service, including the type or level of service, including determinations based on the type or level of service, requirements for medical necessity, appropriateness, setting, or effectiveness of a covered benefit; (130 CMR 610.032(B)(2)).

Here, the Appellant did exhaust the internal appeal process offered through UHC, and thus is entitled to a fair hearing pursuant to the above Regulations. As MassHealth's agent, UHC is required to follow MassHealth laws and regulations pertaining to a member's care:

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. (130 CMR 422.403(C)).

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.

- (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 MassHealth upon request. (See 42 U.S.C. 1396a(a)(30) and 42 CFR 440.230 and 440.260.)
- (C) A provider's opinion or clinical determination that a service is not medically necessary does not constitute an action by the MassHealth agency. (130 CMR 450.204)

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 Regulations describe what MassHealth does not cover as part of the PCA program at 130 CMR 422.412:

Noncovered Services: MassHealth does not cover any of the following as part of the PCA program or the transitional living program:

- (A) social services, including, but not limited to, babysitting, respite care, vocational rehabilitation, sheltered workshop, educational services, recreational services, advocacy, and liaison services with other agencies;
- (B) medical services available from other MassHealth providers, such as physician, pharmacy, or community health center services;
- (C) assistance provided in the form of cueing, prompting, supervision, guiding, or coaching;
- (D) PCA services provided to a member while the member is a resident of a nursing facility or other inpatient facility;
- (E) PCA services provided to a member during the time a member is participating in a community program funded by MassHealth including, but not limited to, day habilitation, adult day health, adult foster care, or

group adult foster care;  
(F) services provided by family members, as defined in 130 CMR 422.402;  
or  
(G) surrogates, as defined in 130 CMR 422.402.

In the instant appeal, the Appellant's SCO, UHC, approved her for 33.5 hours of daytime and 14 nighttime PCA services per week, which was a decrease from the time allocated to Appellant prior to the pandemic of 63.5 total hours, (49.5 daytime hours and 14 nighttime hours). As explained at hearing, the reduction was the result of an in-person assessment at which a UHC nurse evaluated the appellant's functional abilities. The Appellant's caregiver/daughter/health care proxy and son-in-law maintain that the Appellant continues to require assistance at the same, if not a higher level, as she has had in place prior to the in-person functional assessment. (Testimony)

After reviewing the evidence in this appeal, I conclude that the evidence supports UHC's reduction of time. There was no specific issue raised regarding the 14 nighttime hours requested, and the 14 nighttime hours allocated by UHC.

#### **Daytime PCA Hours:**

**Bed Repositioning:** The Appellant was observed to require maximum aid, and UHC allotted 130 minutes per week. (Testimony, Exhibit 8, pg. 345) No time had been allotted for this task in the June 2019 functional assessment. (Testimony). The Appellant's caregiver/daughter/health care proxy and son-in-law had testified that they were not considering specifically how long each task took when they were aiding the Appellant and did not offer any specific information for time for tasks required for this ADL beyond the allocation by UHC.

**Walking/Ambulation:** The Appellant displayed total dependance with Walking/Ambulation and 35 minutes per week had been approved for in the home. (Testimony, Exhibit 8, pg. 346) In addition, UHC included an allotment of 55 minutes per week for Walking/Ambulation outside of the home. (Exhibit 8, pg.346). The Appellant's caregiver/daughter/health care proxy and son-in-law did not offer any specific information for time for tasks required for this ADL beyond the allocation by UHC.

**Transfers:** The Appellant exhibited the need for total assistance for Transfers, and 140 minutes were allocated for PCA services for Transfers. (Testimony, Exhibit 8, pg. 346) The Appellant's caregiver/daughter/health care proxy and son-in-law did not offer any specific information for time for tasks required for this ADL beyond the allocation by UHC.

**Bathing:** The Appellant displayed total dependence with Bathing as well as Bathing (transfers). Here, the medical director testified that the Appellant required more time than was requested, and an increase with a total of 410 minutes was allocated for Bathing and Bathing (transfers).

(Testimony, Exhibit 8, pg. 346-347). UHC's submission allocates 270 minutes per week for aid with upper and lower body bathing, as well as 140 minutes per week of aid with transfer within the shower/tub. (Exhibit 8, pg. 346-347). The Appellant's caregiver/daughter/health care proxy and son-in-law did not offer any specific information for time for tasks required for this ADL beyond the allocation by UHC.

**Personal Hygiene/Hair:** The Appellant requires maximum aid with Personal Hygiene/Hair. (Testimony) UHC allocated 70 minutes per week for Hair and 70 minutes per week for Personal Hygiene. (Exhibit 8, pg. 347). The Appellant's caregiver/daughter/health care proxy and son-in-law did not offer any specific information for time for tasks required for this ADL beyond the allocation by UHC.

**Dressing/Undressing:** Once again, the Appellant exhibited total dependance in the area of Dressing/Undressing. (Testimony). UHC allocated 70 minutes per week for Dressing/Undressing (Upper Body) and 70 minutes per week for Dressing/Undressing (Lower Body). (Exhibit 8, pg. 347-348). The Appellant's caregiver/daughter/health care proxy and son-in-law offered no specific evidence contradicting the adequacy of these time frames.

**Eating:** In the area of Eating, the director testified that UHC increased the time beyond what had been allocated in the past. (Testimony) The Appellant required maximum assistance and 210 minutes had been allocated based upon the observations made during the July 2022 assessment. (Testimony, Exhibit 8, pg.348) The Appellant's caregiver/daughter/health care proxy and son-in-law did not offer any specific information for time for tasks required for this ADL beyond the allocation by UHC.

**Toileting:** Regarding the ADL of Toileting, the Appellant exhibited total dependence. (Testimony). UHC allotted a total of 170 minutes per week including night hours, for assistance with Toileting. (Exhibit 8, pg. 348) The Appellant's caregiver/daughter/health care proxy and son-in-law did not offer any specific information for time for tasks required for this ADL beyond the allocation by UHC.

**Medication:** The Appellant exhibited great difficulty with Medication administration. (Testimony). UHC allocated 150 minutes for Medication assistance. (Exhibit 8, pg. 349) The Appellant's caregiver/daughter/health care proxy and son-in-law offered no evidence contradicting the adequacy of these time frames.

**Meal Preparation:** UHC allotted 25 minutes per week for snack every day, 35 minutes per week for breakfast each day, 30 minutes per week for lunch twice a week, and 105 minutes for dinner every day. (Exhibit 8, pg. 349-350) The Appellant's caregiver/daughter/health care proxy and son-in-law did not offer any specific information for time for tasks required for this ADL beyond the allocation by UHC.

**Laundry:** Regarding the IADL of Laundry, UHC allotted 75 minutes per week for Laundry. (Exhibit 8, pg. 350) The Appellant's caregiver/daughter/health care proxy and son-in-law offered no evidence contradicting the adequacy of these time frames.

**Housekeeping:** UHC allotted 90 minutes per week. (Exhibit 8, pg. 350) The Appellant's caregiver/daughter/health care proxy and son-in-law did not offer any specific information for time for tasks required for this ADL beyond the allocation by UHC.

**Shopping:** Regarding Shopping, UHC allotted 40 minutes per week for shopping. (Exhibit 8 pg. 351) The Appellant's caregiver/daughter/health care proxy and son-in-law offered no evidence contradicting the adequacy of these time frames.

**Phone:** UHC authorized 30 minutes a week for PCA assistance. No argument was made and no evidence was offered by the Appellant that the time allotted was insufficient.

**Medical Appointments:** The medical director testified that this IADL is calculated based upon allocations of minutes per week for the number of appointments per year. The Appellant was allocated 35 minutes per week based upon 12 appointments. (Exhibit 8, pg. 351) The Appellant's caregiver/daughter/health care proxy and son-in-law did not offer any specific information for time for tasks required for this ADL beyond the allocation by UHC.

#### **Nighttime PCA Hours:**

Nighttime hours were allotted at 14 hours per week. This is the amount of time requested by the Appellant, and no specific challenge to this allotment of time, as requested, was raised at hearing.

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). Here, the Appellant has not met that burden. The Appellant's caregiver/daughter/health care proxy and son-in-law testified that they were not considering specifically how long each task took when they were aiding the Appellant. The sum and substance of the testimony was that the Appellant required more time, not less and sought a reinstatement to the time that had been previously allotted. The Appellant's caregiver/daughter/health care proxy and son-in-law did not offer any specific information for times for tasks required for any of the ADLs or IADLs.

Additionally, neither the Appellant's caregiver/daughter/health care proxy nor her son-in-law made any substantive argument refuting the accuracy of the hours allocated by UHC. Rather, the testimony on behalf of the Appellant sought an increase of PCA hours. The Appellant's son-in-law

acknowledged that the medical director's testimony addressed many of the tasks for which the Appellant requires assistance. Nevertheless, the Appellant seeks reinstatement to the allotment of PCA hours based upon the June 2019 functional assessment. In addition to the testimony, the Appellant did offer a letter from a physician. (Ex. 7). However, the letter provides no specific time regarding the level of assistance needed by the Appellant for each task in the ADL's and IADL's.

Based upon the evidence presented in this appeal, The Appellant has not met her burden and this appeal is DENIED.

## **Order for UnitedHealthcare**

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.

## **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: United Healthcare SCO, Attn: Cheryl A. Ellis, M.D., LTC Medical Director, 950 Winter St., Ste. 3800, Waltham, MA 02451