

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



**Appeal Decision:** Approved in part;  
Denied in part

**Appeal Number:** 2301894

**Decision Date:** 5/12/2023

**Hearing Date:** 04/04/2023

**Hearing Officer:** Marc Tonaszuck

**Appearance for Appellant:**



**Appearance for MassHealth:**

Donna Burns, RN, Optum



*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>	Approved in part; Denied in part	<b>Issue:</b>	Personal Care Attendant Services
<b>Decision Date:</b>	5/12/2023	<b>Hearing Date:</b>	04/04/2023
<b>MassHealth's Rep.:</b>	Donna Burns, RN, Optum	<b>Appellant's Rep.:</b>	Father
<b>Hearing Location:</b>	Quincy Harbor South	<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<sup>1</sup>

Through a notice dated 02/22/2023, MassHealth modified the appellant's prior authorization request for personal care attendant (PCA) services from a requested 32.00 day/evening hours per week plus 2 daily nighttime attendant hours to 19:30 day/evening hours per week plus 2 daily night time attendant hours for dates of service from 02/22/2023 to 02/21/2024 (130 CMR 422.410; Exhibit 1). A timely appeal was filed on the appellant's behalf<sup>2</sup> on 03/09/2023 (130 CMR 610.015(B); Exhibit 2). Modifications of a request for assistance are valid grounds for appeal (130 CMR 610.032).

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<sup>1</sup> In MassHealth Eligibility Operations Memo (EOM) 20-09 dated April 7, 2020, MassHealth states the following:

- Regarding Fair Hearings during the COVID-19 outbreak national emergency, and through the end of month in which such national emergency period ends:
  - All appeal hearings will be telephonic; and
  - Individuals will have up to 120 days, instead of the standard 30 days, to request a fair hearing for member eligibility-related concerns.

<sup>2</sup> The appellant is a minor child who was represented by his father in this appeal.

## Action Taken by MassHealth

MassHealth plans to modify appellant's prior authorization request for personal care attendant services.

## Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 422.410 and 450.204, in modifying appellant's prior authorization request for personal care attendant services.

## Summary of Evidence

The MassHealth representative testified that she is registered nurse who works for Optum, the MassHealth contractor that makes the personal care attendant (PCA) decisions. She testified that a prior authorization request for PCA services was received on appellant's behalf on 01/25/2023 from his PCA provider, WestMass. ElderCare Inc. (Provider), and it is a re-evaluation request for the dates of service of 02/22/2023 to 02/21/2024. In the prior authorization request for PCA services, the provider requested 32:00<sup>3</sup> day/evening hours per week plus 2 daily nighttime attendant hours.

The appellant lives with his father, who is a single parent. According to the documentation included with the PA packet is the following information:

Consumer<sup>4</sup> is a [REDACTED] male seen today in his home with his father/caregiver present. Consumer's father has been sole caregiver/single parent for consumer since birth. Father is a [REDACTED] man who suffers from diabetes, hypertension, insomnia and hyperkalemia. Noted at visit is father's frustration and obvious caregiver burnout. Consumer requires 24 hour care to ensure his safety and well-being. Consumer is alert, non-verbal and very active, with no concept of safety. Consumer ambulates independently. Consumer develops explosive behaviors out of nowhere and will injure himself, healing bruises noted on face. Consumer will bite, pinch, and hit self and caregiver, prompting additional time needed for care. Consumer is incontinent of both bladder and bowel, has no toileting regime and wears diapers which require changing frequently, with quick wash after bowel movements. Consumer has pica and must be monitored constantly to prevent him from putting non-food items in mouth.

Consumer still refuses to chew foods and eats only baby food which must be fed to him, and drinks from baby bottle. He will become aggressive at times while being

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<sup>3</sup> PCA time is referred to in this format, 32:00, to signify 32 hours and 00 minutes.

<sup>4</sup> The appellant is referred to as the "consumer" in the PA packet.

fed and will knock spoon out of caregivers hand creating a mess on clothing, floor, and walls. Consumer also has behavior of spitting, and spits on door, television, walls and ceiling of home, all which require constant clean up. Father states consumer is now only attending school for 3 hours per day, he comes home before lunch time as school staff unable to feed him lunch. Father has obtained an educational advocate for help with special education program help as he feels Andre is in need of other services than what is provided at school. Consumer often screams loudly and throws items. There are locks on tops of all doors in house, cabinets and drawers are locked at all times, refrigerator also has a lock on it. Consumer still sleeping in crib to keep him safe and prevent wandering at night. There is a baby gate at top of 13 stairs that lead to bedrooms in home. Father is extremely overwhelmed with amount of care [the appellant] requires and his ability to provide care alone. Consumer has had numerous falls in past year and no hospitalizations. Consumer continues to benefit from PCM program to remain in his home with his parent.

(See Exhibit 4).

The Optum representative testified that on 02/22/2023, MassHealth modified the PCA request to 19:30 day/evening hours per week plus 2 daily nighttime attendant hours. MassHealth modified the request for PCA services in the Activity of Daily Living (ADL) tasks of mobility, bathing, grooming, dressing, undressing and eating and in the Instrumental Activity of Daily Living (IADL) tasks of laundry and housekeeping (Exhibits 1 and 4).

### Mobility

The appellant's PCA provider requested 3 minutes, 2 times per day, 7 times per week (3 X 2 X 7)<sup>5</sup> for PCA assistance with mobility. The provider noted that the appellant is independent with mobility and that he "requires hands on assistance with stairs in home and while outside. Consumer has no concept of safety and must have his hand held while outside at all times. Consumer lacks all impulse control. Consumer will attempt to bolt."

MassHealth denied the request for assistance with mobility. The MassHealth representative testified that the documentation indicates there are no stairs in the home and that the appellant is independent with mobility.

The appellant's father responded that he understood MassHealth's denial of time for assistance with this task.

### Bathing

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<sup>5</sup> PCA time designated in this manner, (i.e., 10 X 1 X 7) means 10 minutes, 1 time per day, 7 times per week.

The appellant's PCA provider requested 35 X 1 X 7 for assistance with bathing and 10 X 1 X 7 for assistance with a daily quick wash. The provider noted that the appellant "requires physical assistance with showering activity, including routine transfers; physical assistance with sponge/bed bath and drying, including routine transfers."

MassHealth modified the request for assistance with bathing to 20 X 1 X 7 for assistance with bathing and no time for the quick wash. The MassHealth representative testified that the time requested is longer than ordinarily required for someone with the appellant's documented abilities.

The appellant's father responded that the appellant is "combative," and nothing can be done "without a fight." The father stated he has to "drag" the appellant to the shower. He concluded that 20 minutes may be enough time if the appellant "behaves himself."

### Grooming

The appellant's PCA provider requested 3 X 3 X 7 for assistance applying lotions and creams. The provider noted that the appellant "is dependent for all grooming tasks, including nail care, oral care, brushing of hair, and application of lotions and barrier creams."

MassHealth modified the request for assistance with lotions and creams to 3 X 2 X 7. The MassHealth representative testified that the time requested is longer than ordinarily required for a member with the appellant's abilities. She also stated that application of creams and lotions more than twice per day is not medically necessary.

The appellant's father responded that the appellant requires lotion to be applied twice per day because his skin is "dry, like leather," and it looks sun-burned. He believes that a bubble machine that is constantly in use at school for therapy causes dryness to the appellant's skin.

### Dressing/Undressing

The appellant's PCA provider requested 15 X 1 X 7 and 10 X 1 X 7 for assistance with dressing. The provider noted that the appellant requires physical assistance with dressing/both upper and lower extremities and assistance with donning footwear. "Due to cognitive status, consumer is unable to choose clothing, or participate in dressing/undressing. Consumer is incontinent of bladder/bowel, and frequently soils through clothing requiring multiple clothing changes daily. He also will strike spoon from caregiver during mealtime, also soiling clothing, requiring clothing changes."

MassHealth did not modify the first request for PCA assistance with dressing; however, the second instance of dressing was modified to 5 X 1 X 7. The MassHealth representative testified that the appellant's second clothing change should not take as long as the time requested based on the documentation.

The provider requested 10 X 2 X 7 for assistance with undressing. MassHealth modified the request to 10 X 1 X 7 for undressing the appellant at the end of the day and 5 X 1 X 7 for partially undressing him.

The appellant's father responded that the appellant is "still in diapers," and he "tries to run away, kick me, or bite," He stated "there is nothing normal" about helping the appellant get dressed or undressed. The appellant needs to have his diaper changed "a couple of times a day," when the diapers leak. He stated that 10 minutes is the minimum amount of time that undressing takes.

### Eating

The appellant's provider requested 20 X 3 X 7 for assistance with eating. The provider noted that the "consumer is fed baby food and drinks from a baby bottle. Father reports [the appellant] has seen a specialist regarding eating but remains a high choking risk. Consumer will hit spoon while being fed, and caregiver must clean food up in surroundings."

MassHealth modified the time requested for assistance with eating to zero. The MassHealth representative testified that the time requested for assistance with eating does not meet the professionally recognized standards of care because the appellant is a high choking risk. The PCA should not be allowed to feed the appellant due to the risk.

The appellant's father testified that the appellant eats only "mush and baby food." He testified that it takes 1 hour, three times a day to assist the appellant with eating. In total feeding the appellant takes about 3 ½ hours per day.

### Laundry

The appellant's provider requested 75 X 1 X 1 (75 minutes per week) for assistance with laundry. The provider noted that the appellant "creates very large quantities of laundry due to incontinence and food spillage during mealtime. There is no washer/dryer in home, laundry must be done in building within apartment complex, consumer cannot be left alone in home for father to go to laundry building. Unable to carry laundry and safely hold on to consumer to walk to the building. Due to autism, consumer unable to safely navigate stairs with father while father makes trips to laundry."

MassHealth modified the request for assistance with laundry to 45 X 1 X 1. The MassHealth representative testified for a child the appellant's age, the parent is legally obligated to assist with laundry, regardless of the member's ability.

The appellant's father responded because of the appellant's incontinence, he must do laundry almost every day, at least 2-4 times per week. It takes 45 minutes for each load of laundry, but he "never really timed it."

The MassHealth representative replied that the time for assistance with laundry is for sorting the clothing, putting it in the machine, then moving it to the dryer after it has been washed, then folding it and putting it away. The time is not for the time it takes the machine to wash or dry the clothes.

### Housekeeping

The appellant's provider requested 60 X 1 X 1 for assistance with housekeeping. The provider noted that the time is requested "for help with housekeeping due to excessive food spillage during feeding and spitting on walls, doors and ceilings. Must be cleaned multiple times daily."

MassHealth modified the time requested for assistance with housekeeping to zero. The MassHealth representative testified that housekeeping for a minor is a parental responsibility regardless of the member's ability.

The appellant's father responded that the appellant "beats himself up, bleeds on himself, spits all day on the furniture, television set, kitchen table and ceiling."

## **Findings of Fact**

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

1. MassHealth received a prior authorization request for PCA services on appellant's behalf on 01/25/2023 from the PCA provider, WestMass ElderServices, Inc., and is a re-evaluation request for the dates of service of 02/22/2023 to 02/21/2024 (Testimony; Exhibit 4).
2. In the prior authorization request for PCA services, the provider requested 32:00 day/evening hours of assistance per week plus 2 daily nighttime attendant hours (Testimony; Exhibit 4).
3. The appellant is a [REDACTED] child who lives with his father who is a single parent. The primary diagnosis affecting his ability to function independently is autism (Testimony; Exhibit 4).
4. On 02/22/2023, MassHealth modified the PCA request to 19:30 day/evening hours per week plus 2 daily nighttime attendant hours (Testimony; Exhibits 1 and 4).
5. A timely appeal was filed on the appellant's request on 03/09/2023 (Exhibit 2).
6. A fair hearing took place on 04/04/2023 before the Board of Hearings (Exhibits 2 and 3).

7. The appellant's father represented him at the fair hearing.
8. A registered nurse represented MassHealth. She is employed by Optum, a MassHealth contractor.
9. The appellant's PCA provider requested 3 X 2 X 7 for PCA assistance with mobility. The provider noted that the appellant is independent with mobility and that he "requires hands on assistance with stairs in home and while outside. Consumer has no concept of safety and must have his hand held while outside at all times. Consumer lacks all impulse control. Consumer will attempt to bolt" (Testimony; Exhibit 4).
10. MassHealth denied the time requested for PCA assistance with mobility (Testimony; Exhibits 1 and 4).
11. The appellant lives in a home that has no stairs. He is independent with mobility (Testimony; Exhibit 4).
12. The appellant's PCA provider requested 35 X 1 X 7 for assistance with bathing and 10 X 1 X 7 for assistance with a daily quick wash. The provider noted that the appellant "requires physical assistance with showering activity, including routine transfers; physical assistance with sponge/bed bath and drying, including routine transfers" (Testimony; Exhibit 4).
13. MassHealth modified the request for assistance with bathing to 20 X 1 X 7 for assistance with bathing and no time for the quick wash (Testimony; Exhibits 1 and 4).
14. The appellant's PCA provider requested 3 X 3 X 7 for assistance applying lotions and creams. The provider noted that the appellant "is dependent for all grooming tasks, including nail care, oral care, brushing of hair, and application of lotions and barrier creams" (Testimony; Exhibit 4).
15. MassHealth modified the time request for assistance with applying lotions and creams to 3 X 2 X 7 (Testimony; Exhibits 1 and 4).
16. Appellant's father testified that lotions and creams are applied twice per day (Testimony).
17. The appellant's PCA provider requested 15 X 1 X 7 and 10 X 1 X 7 for assistance with dressing. The provider noted that the appellant requires physical assistance with dressing/ both upper and lower extremities and assistance with donning footwear. "Due to cognitive status, consumer is unable to choose clothing, or participate in dressing/undressing. Consumer is incontinent of bladder/bowel, and

frequently soils through clothing requiring multiple clothing changes daily. He also will strike spoon from caregiver during mealtime, also soiling clothing, requiring clothing changes” (Testimony; Exhibit 1).

18. MassHealth did not modify the first request for PCA assistance with dressing; however, the second instance of dressing was modified to 5 X 1 X 7 (Testimony; Exhibit 4).
19. The provider requested 10 X 2 X 7 for assistance with undressing the appellant (Testimony; Exhibit 4).
20. MassHealth modified the request for assistance with undressing to 10 X 1 X 7 for undressing the appellant at the end of the day and 5 X 1 X 7 for partially undressing him once during the daytime (Testimony; Exhibit 4).
21. The appellant’s provider requested 20 X 3 X 7 for assistance with eating. The provider noted that the “consumer is fed baby food and drinks from a baby bottle. Father reports [the appellant] has seen a specialist regarding eating but remains a high choking risk. Consumer will hit spoon while being fed, and caregiver must clean food up in surroundings” (Testimony).
22. MassHealth modified the time requested for assistance with eating to zero (Testimony; Exhibits 1 and 4).
23. The MassHealth representative testified that the time requested for assistance with eating does not meet the professionally recognized standards of care because the appellant is a high choking risk. The PCA should not be allowed to feed the appellant due to the risk (Testimony).
24. The appellant’s provider requested 75 X 1 X 1 (75 minutes per week) for assistance with laundry. The provider noted that the appellant “creates very large quantities of laundry due to incontinence and food spillage during mealtime. There is no washer/dryer in home, laundry must be done in building within apartment complex, consumer cannot be left alone in home for father to go to laundry building. Unable to carry laundry and safely hold on to consumer to walk to building. Due to autism, consumer unable to safely navigate stairs with father while father makes trips to laundry (Testimony; Exhibit 4).
25. MassHealth modified the request for assistance with laundry to 45 X 1 X 1 (Testimony; Exhibits 1 and 4).
26. The appellant’s provider requested 60 X 1 X 1 for assistance with housekeeping. The provider noted that the time is requested “for help with housekeeping due to excessive food spillage during feeding and spitting on walls, doors and ceilings. Must be cleaned multiple times daily” (Testimony; Exhibit 4).

27. MassHealth approved no time for assistance with housekeeping (Testimony; Exhibits 1 and 4).

## **Analysis and Conclusions of Law**

Regulations at 130 CMR 450.204 described medical necessity, as follows:

The MassHealth agency 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 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 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, or 517.007 (emphasis added).

Regulations at 130 CMR 422.412 describe non-covered PCA 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.

To qualify for services under the PCA program, the member must meet the conditions defined at 130 CMR 422.403, below:

(C) MassHealth covers personal care 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 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/grooming;
  - (d) dressing or undressing;
  - (e) range-of-motion exercises;
  - (f) eating; and
  - (g) toileting
- (4) The MassHealth agency has determined that the PCA services are medically necessary and has granted a prior authorization for PCA services (emphasis added).

The type of PCA services available are described in 130 CMR 422.410 below:

- (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 personal care 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 personal care 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 personal care 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 appellant has the burden "to demonstrate the invalidity of the administrative determination." See *Andrews vs. Division of Medical Assistance*, 68 Mass. App. Ct. 228. Moreover, the burden is on the appealing party to demonstrate the invalidity of the administrative determination. See *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).

MassHealth made modifications to the appellant's request for PCA services. The request is a re-evaluation for dates of service from 02/22/2023 to 02/21/2024. In the prior authorization request for PCA services, the provider requested 32.00 day/evening hours

per week plus 2 daily nighttime attendant hours. The appellant is a seven-year-old child who lives with his father, who is a single parent. The primary diagnosis affecting his ability to function independently is autism.

MassHealth modified the PCA request to 19:30 day/evening hours per week plus 2 daily nighttime attendant hours. MassHealth modified the request for PCA services in the Activity of Daily Living (ADL) tasks of mobility, bathing, grooming, dressing, undressing and eating and in the Instrumental Activity of Daily Living (IADL) tasks of laundry and housekeeping.

### **Mobility**

In the area of mobility, the provider requested PCA time to assist the appellant up and down stairs, inside and outside the home. MassHealth denied the time for mobility, basing the decision on the documentation that states the appellant is independent with mobility and that there are no stairs in the home. The appellant's father understood the basis of the modification. This portion of the appeal is therefore denied.

### **Bathing**

The appellant's PCA provider requested 35 X 1 X 7 for assistance with bathing and 10 X 1 X 7 for assistance with a daily quick wash. The provider noted that the appellant "requires physical assistance with showering activity, including routine transfers; physical assistance with sponge/bed bath and drying, including routine transfers." MassHealth modified the request for assistance with bathing to 20 X 1 X 7 for assistance with bathing and no time for the quick wash. MassHealth based its decision on its determination that the time requested exceeds the assistance ordinarily required for someone with the appellant's abilities. The father testified that the appellant is very combative and sometimes needs to be dragged into the shower. He asserted the time requested is necessary.

The father's testimony is credible. He has provided information that may not have been available to MassHealth at the time of the review. The time requested is medically necessary and this portion of the appeal is therefore approved.

### **Grooming (applying lotion and creams)**

The appellant's PCA provider requested 3 X 3 X 7 for assistance applying lotions and creams. The provider noted that the appellant "is dependent for all grooming tasks, including nail care, oral care, brushing of hair, and application of lotions and barrier creams. MassHealth modified the time request for assistance with applying lotions and creams to 3 X 2 X 7, changing the frequency from 3 times a day to 2. The appellant's father confirmed that lotions and creams are applied twice a day. MassHealth's modification is supported by the facts in the hearing record, therefore, this portion of the appeal is denied.

## **Dressing/Undressing**

The appellant's PCA provider requested 15 X 1 X 7 and 10 X 1 X 7 for assistance with dressing. The provider noted that the appellant requires physical assistance with dressing/both upper and lower extremities and assistance with donning footwear. "Due to cognitive status, consumer is unable to choose clothing, or participate in dressing/undressing. Consumer is incontinent of bladder/bowel, and frequently soils through clothing requiring multiple clothing changes daily. He also will strike spoon from caregiver during mealtime, also soiling clothing, requiring clothing changes." MassHealth did not modify the first request for PCA assistance with dressing; however, the second instance of dressing was modified to 5 X 1 X 7.

The provider requested 10 X 2 X 7 for assistance with undressing the appellant. MassHealth modified the request for assistance with undressing to 10 X 1 X 7 for undressing the appellant at the end of the day and 5 X 1 X 7 for partially undressing him once during the daytime.

The appellant's father testified credibly that the appellant requires assistance for clothing changes at least twice a day due to leaky diapers. He also testified that the appellant is combative, requiring more time than ordinary to assist with the clothing changes. I credit the father's testimony. All time requested for dressing and undressing is medically necessary. This portion of the appeal is therefore approved.

## **Eating**

The appellant's provider requested 20 X 3 X 7 for assistance with eating. The provider noted that the "consumer is fed baby food and drinks from a baby bottle. Father reports [the appellant] has seen a specialist regarding eating but remains a high choking risk. Consumer will hit spoon while being fed, and caregiver must clean food up in surroundings." MassHealth modified the time requested for assistance with eating to zero. The MassHealth representative, a registered nurse, testified that the time requested for assistance with eating does not meet the professionally recognized standards of care because the appellant is a high choking risk. The PCA should not be allowed to feed the appellant due to the risk. Although the father testified that the appellant is fed "mushy food" only, he has not provided professional opinion that contradicts MassHealth's testimony. I therefore credit the MassHealth representative's opinion and testimony. This portion of the appeal is therefore denied.

## **Laundry**

The appellant's provider requested 75 X 1 X 1 (75 minutes per week) for assistance with laundry. The provider noted that the appellant "creates very large quantities of laundry due to incontinence and food spillage during mealtime. There is no washer/dryer in home, laundry must be done in building within apartment complex, consumer cannot be left alone in home for father to go to laundry building. Unable to carry laundry and safely hold on to

consumer to walk to building. Due to autism, consumer unable to safely navigate stairs with father while father makes trips to laundry.” MassHealth modified the request for assistance with laundry to 45 X 1 X 1. MassHealth’s decision is based on its determination that laundry for a child is a parental responsibility. The time approved is the assistance required beyond that of a parental responsibility.

The father testified that the appellant’s increased laundry needs are due to his urinary incontinence. I credit the father’s testimony. The time requested is medically necessary and this portion of the appeal is therefore approved.

### **Housekeeping**

The appellant’s provider requested 60 X 1 X 1 for assistance with housekeeping. The provider noted that the time is requested “for help with housekeeping due to excessive food spillage during feeding and spitting on walls, doors and ceilings. Must be cleaned multiple times daily.” MassHealth denied the requested time for assistance with housekeeping, basing its decision on its determination that housekeeping for any child is a parental responsibility. The father testified that the appellant bleeds and spits “all day,” on many parts of the home, requiring a great deal of excessive housekeeping assistance. The father’s testimony is credible and supported by the documentation in the hearing record. The time requested for assistance with housekeeping is medically necessary. This portion of the appeal is therefore approved.

For the foregoing reasons, this appeal is approved in part; denied in part.

### **Order for MassHealth**

In the area of bathing, approve all time as requested (35 X 1 X 7 and 10 X 1 X 7). In the area of dressing/undressing, approve all time as requested (Dressing - 15 X 1 X 7 and 10 X 1 X 7; Undressing – 10 X 2 X 7). In the area of Laundry, approve all time as requested (75 X 1 X 1). In the area of Housekeeping, approve all time as requested (60 X 1 X 7). Proceed with all other modifications.

### **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, Division of Medical Assistance, at the address on the first page of this decision.

### **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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Marc Tonaszuck  
Hearing Officer  
Board of Hearings

cc:

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