

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied in part; Dismissed in part	Appeal Number:	2301992
Decision Date:	4/28/2023	Hearing Date:	04/14/2023
Hearing Officer:	Thomas J. Goode		

Appearance for Appellant:
Pro se with Grandson

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

Appeal Decision:	Denied in part; Dismissed in part	Issue:	PCA Services
Decision Date:	4/28/2023	Hearing Date:	04/14/2023
MassHealth's Rep.:	Donna Burns, RN	Appellant's Rep.:	Pro se with Grandson
Hearing Location:	Remote	Aid Pending:	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 January 3, 2023, MassHealth modified Appellant's prior authorization request for personal care attendant services (130 CMR 422.410, 422.412, 450.204 and Exhibit 1). Appellant filed this appeal in a timely manner on March 10, 2023 (130 CMR 610.015(B) and Exhibit B). Modification of a request for assistance is valid grounds for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth modified 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, 422.412, 450.204, in modifying Appellant's prior authorization request for personal care attendant services.

Summary of Evidence

The MassHealth representative identified herself as a registered nurse, and testified that Appellant is [REDACTED] years old, with primary diagnoses of back pain, obesity, and memory loss. Through a notice dated January 3, 2023, MassHealth notified Appellant that a prior authorization request for Personal Care Attendant services was modified from 39.25 day/evening hours requested to 33.25

day/evening hours effective January 28, 2023 through January 27, 2024 (Exhibit 1). Modifications were made in the following areas: mobility, bathing, grooming, and bladder care. MassHealth reversed modifications made in bladder care and approved time as requested; and Appellant accepted the reduction in bathing time to 30 minutes which excludes 10 additional minutes requested for shampooing. Regarding mobility transfers, Appellant requested 3 minutes 6 times per day, 7 days per week for mobility transfers which was approved. Appellant also requested 4 minutes once per day, 7 days per week for assistance with stairs. The MassHealth representative testified that MassHealth approved time for mobility transfers under medical transportation to assist Appellant getting to medical appointments, and for transfers within her living space. The additional mobility transfers were denied because MassHealth regulations at 130 CMR 422.412(A) do not allow time for mobility transfers to go outside for exercise or recreation. MassHealth also reduced PCA time for hair care requested 5 minutes twice per day, 7 days per week to 5 minutes once per day, 7 days per week because the modification reflects the standard of care for hair care once per day after showering.

Appellant's representative testified that the PCA assists Appellant with the stairs to take her outside for walks to help with varicose veins and poor circulation. Appellant's representative also stated that Appellant needs hair care twice per day because her hair gets messy throughout the day from moving around.

Findings of Fact

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

1. Appellant is ■ years old, with primary diagnoses of back pain, obesity, and memory loss.
2. Through a notice dated January 3, 2023, MassHealth notified Appellant that a prior authorization request for Personal Care Attendant services was modified from 39.25 day/evening hours requested to 33.25 day/evening hours effective January 28, 2023 through January 27, 2024.
3. Modifications were made in the following areas: mobility, bathing, grooming, and bladder care. MassHealth reversed modifications made in bladder care and approved time as requested; and Appellant accepted the reduction in bathing time to 30 minutes which excludes 10 additional minutes requested for shampooing.
4. Appellant requested mobility transfers 3 minutes 6 times per day, 7 days per week for mobility transfers which was approved. Appellant also requested 4 minutes once per day, 7 days per week for assistance with stairs to go outside for walks to help with varicose veins and poor circulation.
5. MassHealth approved time for mobility transfers under medical transportation to assist Appellant getting to medical appointments, and for transfers within her living space.

6. MassHealth reduced PCA time requested for hair care requested 5 minutes twice per day, 7 days per week to 5 minutes once per day, 7 days per week because the modification reflects the standard of care for hair care once per day after showering.

Analysis and Conclusions of Law

Through a notice dated January 3, 2023, MassHealth notified Appellant that a prior authorization request for Personal Care Attendant services was modified from 39.25 day/evening hours requested to 33.25 day/evening hours effective January 28, 2023 through January 27, 2024 (Exhibit 1). Modifications were made in the following areas: mobility, bathing, grooming, and bladder care. MassHealth reversed modifications made in bladder care and approved time as requested; and Appellant accepted the reduction in bathing time to 30 minutes which excludes 10 additional minutes requested for shampooing. As the parties reached agreement regarding modifications to time requested for day/evening PCA hours for bathing and bladder care, the issues are DISMISSED (130 CMR 610.051(B), 610.035(A)(8)).

The party appealing an administrative decision bears the burden of demonstrating the decision's invalidity.¹ Regarding mobility transfers, Appellant requested 3 minutes 6 times per day, 7 days per week for mobility transfers which was approved. Appellant also requested 4 minutes once per day, 7 days per week for assistance with stairs. The MassHealth representative testified that MassHealth approved time for mobility transfers under medical transportation to assist Appellant getting to medical appointments, and for transfers within her living space. Regulation 130 CMR 422.412(A) outlines non-covered services including, but not limited to, babysitting, respite care, vocational rehabilitation, sheltered workshop, educational services, recreational services, advocacy, and liaison services with other agencies. While Appellant argued that walks outside are necessary due to varicose veins and poor circulation, there is no evidence in the hearing record to support the medical necessity for the transfers requested which MassHealth otherwise correctly characterized as recreational activity which is not a covered service. Regarding hair care requested 5 minutes twice per day, 7 days per week, the MassHealth nurse-reviewer testified credibly that the standard of care for hair care is once per day after showering. Appellant has not carried the burden of proof in showing that an additional 5 minutes per day, 7 days per week for hair care is medically necessary.

As it relates to modifications in PCA time requested for mobility transfers and hair care, the appeal is DENIED.

Order for MassHealth

None.

¹ Merisme v. Board of Appeals of Motor Vehicle Liability Policies and Bonds, 27 Mass. App. Ct. 470, 474 (1989).

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.

Thomas J. Goode
Hearing Officer
Board of Hearings

cc:

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

