

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2302010
Decision Date:	4/14/2023	Hearing Date:	04/10/2023
Hearing Officer:	Susan Burgess-Cox		

Appearance for Appellant:



Appearance for MassHealth:

Donna Burns

Interpreter: ITI - Jasmine #248657



*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:	Approved	Issue:	Prior Authorization
Decision Date:	4/14/2023	Hearing Date:	04/10/2023
MassHealth's Rep.:	Donna Burns	Appellant's Rep.:	Mother
Hearing Location:	All Parties Appeared by Telephone	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 February 15, 2023, MassHealth modified the appellant's prior authorization request for personal care services. (130 CMR 422.000; Exhibit 1). The appellant filed this appeal in a timely manner on March 13, 2023. (130 CMR 610.015(B); Exhibit 2). A decision regarding the scope or amount of assistance is valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

MassHealth modified the appellant's prior authorization request for personal care services.

Issue

Whether MassHealth was correct in modifying the appellant's request for personal care services.

Summary of Evidence

All parties appeared by telephone. An interpreter was provided to for the appellant's mother to actively participate in the hearing. The appellant is under the age of 18, legally blind and has a primary diagnosis of Autism. (Testimony; Exhibit 4). The appellant is non-verbal, has cognitive issues, impaired sequencing and behavioral issues. The appellant is in school. (Testimony; Exhibit 4). The appellant resides with family members.

The appellant requested 26.25 day/evening and no nighttime hours for personal care attendant (PCA) services. (Testimony; Exhibit 4). MassHealth modified this request and approved 17.5 day/evening hours and no nighttime hours. The appellant was approved for 31 day/evening hours in the past. Dates of service are February 17, 2023 to February 16, 2023. MassHealth modified the time requested for 5 tasks.

The appellant requested 45 minutes, one time each day for assistance with bathing. MassHealth modified this time and approved 30 minutes one time each day for assistance with bathing as 45 minutes seemed longer than ordinarily required for tasks associated with bathing. The appellant requires assistance with all tasks associated with bathing due to physical and cognitive impairments as well as resistance to care. Records submitted by the provider state that the time is necessary for the appellant to receive physical assistance with bathing including transfers. The appellant's mother noted throughout the hearing that the appellant has outbursts, is difficult to keep on task and at times requires assistance from more than one individual

The appellant requested 20 minutes each day for assistance with dressing. MassHealth modified this request and approved 15 minutes each day for assistance with dressing. The appellant's mother testified that the appellant often does not want to get dressed and it can take up to 25 minutes to get her dressed due to the appellant's behavior issues and difficulty in keeping the appellant on task. The appellant's mother testified that the appellant is completely dependent on others to complete these tasks. The appellant's mother testified that the appellant is 4'6" and weighs approximately 130 pounds. The appellant's mother testified that often someone has to be in front and in back of the appellant to get her dressed.

The appellant requested 20 minutes each day for undressing. MassHealth modified this request and approved 10 minutes each day for undressing. The appellant's mother testified that the time for undressing was necessary due to having to change the appellant's diapers. The MassHealth representative responded that the tasks associated with changing diapers is related to the time

for toileting. Records show that the time for dressing and undressing was related to the appellant being totally dependent due to her autism, legal blindness, cognitive issues, behavior issues and inability to sequence tasks. The records also indicate that the appellant can be resistive to care, as noted by the appellant's mother at hearing. Additionally, the appellant's mother testified that the appellant's diaper is changed several times each day.

The appellant requested 20 minutes, two times each day, 7 days each week for assistance with bladder care as well as 10 minutes, 6 times each day, 7 days each week. MassHealth modified this request and approved 10 minutes, 6 times each day, 7 days each week for bladder care. The MassHealth representative testified that they did not approve the 20 minutes, two times each day as there was no information regarding the need for that time. Records indicate that the appellant requested time for physical assistance with toilet hygiene, physical assistance with clothing management and physical assistance with changing absorbent products. The appellant's mother testified that at times the appellant uses the toilet and at times she soils the diaper. As noted above, appellant's mother testified that the appellant's diaper has to be changed several times each day.

The appellant requested 20 minutes, one time each day for assistance with bowel care. MassHealth modified this request and approved 15 minutes, one time each day for assistance with bowel care.

As noted above, the appellant has been approved for 31 hours of PCA services in the past, the appellant is non-verbal and English is not her mother's first language. At one point during the hearing, the appellant's mother stated that she did not have any additional testimony to provide regarding the time requested as she felt that the decision was made and could not be changed. As noted above, the Board of Hearings provided an interpreter and at times it appeared that there was a clear language barrier despite this service. It is not clear what, if any, language services were provided at the time of the evaluation.

Findings of Fact

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

1. The appellant submitted a request for 26.25 day/evening and 0 nighttime hours for Personal Care Attendant services.
2. MassHealth modified this request and approved 17.5 day/evening hours and no nighttime hours.

3. Dates of service are February 17, 2023 to February 16, 2023.
4. The appellant is under the age of 18, is legally blind and has a primary diagnosis of Autism.
5. The appellant is non-verbal, has cognitive issues, impaired sequencing and behavioral issues.
6. The appellant is in school.
7. The appellant resides with family members.
8. The appellant's mother appeared by herself at hearing.
9. English is not the first language of the appellant's mother.
10. The appellant requested 26.25 day/evening and no nighttime hours for personal care attendant (PCA) services.
11. MassHealth modified this request and approved 17.5 day/evening hours and no nighttime hours.
12. The appellant was approved for 31 day/evening hours in the past.
13. MassHealth made modifications to the time requested for 5 tasks.
14. The appellant is totally dependent for bathing due to legal blindness, cognitive issues, behavior issues, inability to sequence events, lack of awareness of need and resistance to care.
15. The appellant has outbursts, is difficult to keep on task and at times requires assistance from more than one individual.
16. The appellant requested 45 minutes, one time each day for assistance with bathing.
17. MassHealth modified this time and approved 30 minutes one time each day for assistance with bathing.
18. Records submitted by the provider state that 45 minutes is necessary for the appellant to receive physical assistance with showering including

routine transfers.

19. The appellant requested 20 minutes each day for assistance with dressing.
20. MassHealth approved 15 minutes each day for assistance with dressing.
21. The task of getting dressed can take up to 25 minutes due to the appellant's behavior issues, difficulty in keeping the appellant on task and the frequent need to have more than one person assist in completing the task.
22. The appellant requested 20 minutes each day for undressing.
23. MassHealth approved 10 minutes each day for undressing.
24. The appellant gets a diaper changed each day when undressing.
25. The appellant requested 20 minutes, two times each day, 7 days each week for assistance with bladder care.
26. The appellant requested 10 minutes, 6 times each day, 7 days each week for assistance with bladder care.
27. MassHealth approved 10 minutes, 6 times each day, 7 days each week for bladder care.
28. The appellant requested time for physical assistance with toilet hygiene, clothing management and changing absorbent products.
29. The time for bladder care is sometimes associated with the time for toileting and other times associated with the need to change a diaper.
30. The appellant's diaper is changed several times each day.
31. The appellant requested 20 minutes, one time each day for assistance with bowel care.
32. MassHealth approved 15 minutes, one time each day for assistance with bowel care.

Analysis and Conclusions of Law

MassHealth covers personal care attendant (PCA) services only when provided to eligible MassHealth members, subject to the restrictions and limitations described in the MassHealth regulations. (130 CMR 422.403). 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 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 Activities of Daily Living (ADLs) and Instrumental Activities of Daily Living (IADLs) without physical assistance.
- (3) The member, as determined by the personal care 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 and has granted a prior authorization for PCA services. (130 CMR 422.403(C)).

The appellant meets the conditions to receive such services. (130 CMR 422.403(C)).

MassHealth covers activity time performed by a PCA in providing assistance with ADLs and IADLs as described in 130 CMR 422.410, as specified in the evaluation described in 130 CMR 422.422(C) and (D), and as authorized by the MassHealth agency. (130 CMR 422.411(A)).

The Personal Care Management (PCM) agency must request prior authorization from MassHealth as a prerequisite to payment for PCA services. (130 CMR 422.416). Prior authorization determines only the medical necessity of the authorized service and does not establish or waive any other prerequisites for payment such as member eligibility or utilization of other potential sources of health care. (130 CMR 422.416). The regulations define a service as "medically necessary" if 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. (130 CMR 450.204(A)). Medically necessary services must be substantiated by records

including evidence of such medical necessity and quality. (130 CMR 450.204(B)). A provider must make those records available to MassHealth upon request. (130 CMR 450.204(B)).

In reviewing records presented by the appellant's provider, MassHealth authorized time for PCA services but modified the time requested for several tasks.

Activities of daily living include physically assisting a member with bathing, personal hygiene or grooming. (130 CMR 422.410(A)(3)). Records presented by the appellant's provider, testimony presented by the appellant's mother and clear language barriers that likely impaired the evaluation demonstrate that the time requested for bathing, bladder care and bowel care is medically necessary. Testimony and records presented do not show an improvement in the appellant's functioning. In fact, the testimony presented by the appellant's mother regarding changes in behavior demonstrate that it is likely that more time is necessary than what was in the request by the provider as well as approved by MassHealth.

Activities of daily living include physically assisting a member to dress or undress. (130 CMR 422.410(A)(4)). The appellant's representative demonstrated that the time requested for physically assisting the appellant to dress and undress was appropriate due to behaviors and physical limitations that impact the need to change clothing and diapers. Additionally, issues of incontinence and frequency of changing diapers throughout the day and at night demonstrated that the time of dressing and undressing is appropriate and medically necessary.

As noted above, the appellant's condition has appeared to remain the same or declined which would require more time than that requested. From testimony and actions at hearing, it appears that a possible language barrier may be impacting the submission by the provider as well as the decision made by MassHealth.

This appeal is approved to ensure the appellant receives the required services.

Order for MassHealth

Adjust the decision and approve the time requested for all tasks effective February 17, 2023.

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.

Susan Burgess-Cox
Hearing Officer
Board of Hearings

CC:

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