



**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Approved	<b>Appeal Number:</b>	2303163
<b>Decision Date:</b>	7/7/2023	<b>Hearing Date:</b>	05/18/2023
<b>Hearing Officer:</b>	Scott Bernard		

**Appearance for Appellant:**

 *via* telephone  
 *via* telephone

**Appearance for MassHealth:**

Cheryl Eastman, RN (Optum) *via* telephone



*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	<b>Issue:</b>	Personal Care Attendant (PCA)
<b>Decision Date:</b>	7/7/2023	<b>Hearing Date:</b>	05/18/2023
<b>MassHealth's Rep.:</b>	Cheryl Eastman, RN	<b>Appellant's Rep.:</b>	[REDACTED]
<b>Hearing Location:</b>	Quincy Harbor South		

## 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 March 28, 2023, MassHealth approved the appellant's request for PCA services with modifications resulting in a reduction from the level requested. (See 130 CMR 422.410 and Exhibit (Ex.) 1). The appellant filed this appeal in a timely manner on April 19, 2023. (See 130 CMR 610.015(B) and Ex. 2). Modifications to a request for PCA services is valid grounds for appeal. (See 130 CMR 610.032).

## Action Taken by MassHealth

MassHealth approved the appellant's request for PCA but made modifications that resulted in a reduction from the time as initially requested.

## Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 422.410, in determining that the appellant's request for PCA services should be modified.

## Summary of Evidence

The MassHealth representative stated the following. The PCM agency submitted this PCA reevaluation on March 27, 2023. (Ex. 5, pp. 7-62). The PCM agency requested 21 hours of day and evening services *per week* and two hours *per night* for one year. (Ex. 1; Ex. 5, pp. 4-6). In the notice dated March 28, 2023, MassHealth informed the appellant that it was modifying the time requested and approving 18 hours, 45 minutes *per week* and 2 hours *per night* for the service period from March 28, 2023 through March 27, 2024. (Id.).

In its submission, the PCM agency states that the appellant is an individual under the age of 65 who has been diagnosed with osteoarthritis. (Ex. 5, p. 8). The appellant had her right hip replaced in 2013 and her left hip replaced in 2016. (Id.). The PCM agency states that the appellant is obese but has lost weight. (Id.). The appellant has a history of torn aorta in 2019. (Id.). The appellant continues to have high pain in major joints. (Id.). The appellant has lowered activity tolerance, unsteady gait, low endurance and high fatigue. (Id.). The appellant needs frequent rest periods and remains a fall risk. (Id.).

Based on the information submitted, MassHealth modified the time requested for toileting/bladder care, an activity of daily living (ADL), and housekeeping, an instrumental activity of daily living (IADL). (Ex. 1; Ex. 5, pp. 4-6).

### **Bladder care**

The PCM agency requested five minutes, 10 times *per day*, seven days *per week* for toileting. (Ex. 5, p. 20). The PCM agency stated "PCA assists consumer with transfer in and out of bathroom due to unsteady gait and then provides all post toileting hygiene and clothing management. Consumer has heightened urgency and frequently is incontinent of bladder, requiring a clothing change." (Id.). MassHealth reduced the time requested to five minutes, seven times *per day*, seven days *per week* because "THE TIME YOU REQUESTED FOR ASSISTANCE WITH TOILETING IS LONGER THAN ORDINARILY REQUIRED FOR SOMEONE WITH YOUR PHYSICAL NEEDS." (Ex. 1; Ex. 5, pp. 4-6).

The appellant stated that she required the requested frequency for assistance with her bladder. The appellant stated that she had a lot of issues with defecation and that she sometimes urinates on herself. The appellant's representative stated that the appellant requires at least 10 times *per day* for bladder care, and that seven was not enough time.

In response, the MassHealth representative stated that the appellant was approved for 10 instances of toileting *per day*, which included one instance for bowel care and an assumed further two at night. At the requested frequency, including the requested two times *per night*, as well as the one bowel care *per day*, the appellant would be toileting at a rate of a little more once every two hours. MassHealth decided that it would not modify the frequency of bowel care but did consider the frequency of bladder care too high.

The appellant's representative stated that he and the appellant disagreed with MassHealth

determination concerning bladder care. The appellant requires a frequency of 10 *per* day based on her physical needs. The appellant's representative argued that bowel should be considered separately and not be counted amongst the 10 incidents the appellant requires for bladder care. The appellant stated that she needs more frequent assistance with bladder care because she takes medications that increase her urgency.

### **Housekeeping**

The PCM agency requested assistance with housekeeping for 75 minutes *per* week. (Ex. 5, p. 29). In its submission, the PCM agency stated that the PCA performs all housekeeping for the appellant. (Id.). In its decision, MassHealth modified the time requested to 45 minutes *per* week, stating that the time requested was longer than ordinarily required. (Ex. 1; Ex. 5, p. 5). The MassHealth representative stated that in addition to the fact that the time requested was longer than ordinarily required, there were also family members living with the appellant in the household who could assist with housekeeping. The appellant stated that because of her arthritis, she frequently eats in her room. The appellant stated that she spills foods in her room. The appellant also stated that there is further need for time for housekeeping because of her incontinence. The appellant also stated that she has allergies to dust, and that also requires a higher amount of housekeeping. The appellant's representative argued that the requested 75 minutes *per* week was necessary to accommodate the appellant's physical handicap and that MassHealth should not have reduced the time requested.

### **Findings of Fact**

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

1. The appellant is an individual under the age of 65 who has been diagnosed with osteoarthritis. (Ex. 5, p. 8).
2. The PCM agency submitted a reevaluation of PCA services on March 27, 2023. (Ex. 5, pp. 7-62).
3. The PCM agency submission states:
  - a. The appellant had her right hip replaced in 2013 and her left hip replaced in 2016;
  - b. The appellant is obese but has lost weight;
  - c. The appellant has a history of torn aorta in 2019;
  - d. The appellant continues to have high pain in major joints;
  - e. The appellant has lowered activity tolerance, unsteady gait, low endurance and

high fatigue;

- f. The appellant needs frequent rest periods and remains a fall risk. (Ex. 5, p. 8).
4. The PCM agency requested 21 hours of day and evening services *per week* and two hours *per night* for one year. (Ex. 1; Ex. 5, pp. 4-6).
5. In a letter dated March 28, 2023, MassHealth notified the appellant that it was modifying the time requested and approving 18 hours, 45 minutes *per week* and 2 hours *per night* from March 28, 2023 through March 27, 2024. (Ex. 1; Ex. 5, pp. 4-6).
6. Specifically MassHealth modified the time requested for bladder care, an ADL, and housekeeping, an IADL. (Ex. 1; Ex. 5, pp. 4-6).
7. The PCM agency requested five minutes, 10 times *per day*, seven days *per week* for toileting. (Ex. 5, p. 20).
8. The PCM agency stated “PCA assists consumer with transfer in and out of bathroom due to unsteady gait and then provides all post toileting hygiene and clothing management. Consumer has heightened urgency and frequently is incontinent of bladder, requiring a clothing change.” (Ex. 5, p. 20).
9. MassHealth reduced the time requested to five minutes, seven times *per day*, seven days *per week* because “THE TIME YOU REQUESTED FOR ASSISTANCE WITH TOILETING IS LONGER THAN ORDINARILY REQUIRED FOR SOMEONE WITH YOUR PHYSICAL NEEDS.” (Ex. 1; Ex. 5, pp. 4-6).
10. The appellant’s heightened urgency due to medications she is taking. (Testimony of the appellant).
11. The PCM agency requested assistance with housekeeping for 75 minutes per week. (Ex. 5, p. 29).
12. In its submission, the PCM agency stated that the PCA performs all housekeeping for the appellant. (Ex. 5, p. 29).
13. In its decision, MassHealth modified the time requested to 45 minutes per week, stating that the time requested was longer than ordinarily required. (Ex. 1; Ex. 5, p. 5).
14. The appellant has a sensitivity to dust. (Testimony of the appellant).
15. Due to the appellant’s arthritis, she frequently eats in her bed, and drops food. (Testimony of the appellant).

16. The appellant also is incontinent creating a further need for assistance with cleaning the living area. (Testimony of the appellant).

## **Analysis and Conclusions of Law**

The PCM agency must request prior authorization from the MassHealth agency as a prerequisite to payment for PCA services. (130 CMR 422.416(A)). Prior authorization determines only the medical necessity of the authorized service. (Id.). MassHealth covers activity time performed by a PCA in providing assistance with activities of daily living (ADLs) and IADLs. (130 CMR 422.411(A)). ADLs include certain specified activities that are fundamental to an individual's self-care and include toileting or physically assisting a member with bowel or bladder needs. (130 CMR 422.402; 422.410(A)(7)). IADLs are those specific activities that are instrumental to the care of the member's health and include household services such as physically assisting with housekeeping. (130 CMR 422.402; 422.410(B)(1)).

MassHealth does 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. (130 CMR 450.204). 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...(130 CMR 450.204(A)).

The appellant has shown by a preponderance of the evidence that the frequency requested for bladder care and the time requested for housekeeping are both medically necessary. The record shows that the appellant has increased bladder urgency due to the medications she is taking. The appellant is frequently incontinent. This supports the assertion that the appellant requires assistance with 10 visits to the bathroom for bladder toileting per day/evening, exclusive of her bowel care, and any assistance she receives at night. Similarly, the record shows that the appellant is completely incapable of assisting with housekeeping, has a sensitivity to dust, frequently eats in her bed, and drops food. Additionally, the appellant stated that her incontinence leads to her causing messes in her living area. The need for 75 minutes per week of assistance with housekeeping seems readily apparent.

For the above stated reasons, the appeal is APPROVED.

## Order for MassHealth

None.

### 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.

---

Scott Bernard  
Hearing Officer  
Board of Hearings

cc:

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

