

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2303302
Decision Date:	6/16/2023	Hearing Date:	05/25/2023
Hearing Officer:	Susan Burgess-Cox		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Mary Jo Elliott

Interpreter:
Zully Rodriguez



*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	Issue:	Prior Authorization
Decision Date:	6/16/2023	Hearing Date:	05/25/2023
MassHealth's Rep.:	Mary Jo Elliott	Appellant's Rep.:	Pro se
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 April 4, 2023, MassHealth denied the appellant's request for personal care attendant (PCA) services. (130 CMR 422.000; Exhibit 1). The appellant filed a timely appeal on April 24, 2023. (130 CMR 610.015(B); Exhibit 2). Denial of assistance is valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied the appellant's request for PCA services.

Issue

Whether MassHealth was correct in denying the appellant's request for PCA services.

Summary of Evidence

All parties appeared by telephone. An interpreter was provided for the appellant. The MassHealth representative, a registered nurse who is a consultant for the MassHealth Personal Care Attendant (PCA) program, testified that the agency received a reevaluation for PCA services.

(Testimony; Exhibit 4). The request was for 38.75 day/evening hours and 2 nighttime hours. (Testimony; Exhibit 4).

MassHealth denied the request as the submission did not include a signature of a physician, nurse practitioner or physician's assistant as required under the regulations. The MassHealth representative noted that during the COVID-19 federal emergency, the agency provided Personal Care Management (PCM) agencies the opportunity to provide information regarding the inability to obtain the necessary signatures due to limitations in place due to the pandemic. The MassHealth representative testified that the appellant's PCM agency did not provide a signature or information regarding the inability for the PCM agency to receive a signature.

The MassHealth representative testified that records show the appellant has a diagnosis of Parkinson's Disease, recent knee surgery and her condition is advancing. The MassHealth representative testified that the PCM agency submitted reevaluation forms and requested 90-day extensions on at least two occasions to allow them the opportunity to obtain the necessary documents. MassHealth authorized services to continue during each period. The MassHealth representative noted that this most recent submission did not include an extension request or signature of a physician, nurse practitioner or physician's assistant as required under the regulations. Therefore, MassHealth denied the request for PCA services.

The MassHealth representative noted that should the provider submit the correct documents, MassHealth can consider the request and the PCM agency may request MassHealth to close any gap in coverage. The MassHealth representative noted that they received another request on the day of the hearing but it was not clear whether it was complete and if MassHealth would possibly make any adjustments to the request.

The appellant testified that she needs services as her condition is progressing. The appellant's daughter provides PCA services. The appellant testified that the nurse performing the evaluation for the PCM agency stated that they appellant required a continuation of services. The appellant testified that she is not clear as to why the PCM agency has not submitted the correct forms.

Findings of Fact

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

1. The appellant's personal care management (PCM) agency submitted a prior authorization request for personal care attendant (PCA) services.
2. The appellant has received PCA services in the past.
3. The reevaluation was not signed by the appellant's physician, nurse practitioner, or

physician assistant.

4. As of the date of the hearing, MassHealth had not received a completed reevaluation signed by the appellant's physician, nurse practitioner or physician assistant.

Analysis and Conclusions of Law

MassHealth covers personal care services only when provided to eligible MassHealth members, subject to the restrictions and limitations described in the MassHealth regulations. (130 CMR 422.403). Pursuant to 130 CMR 422.416, the personal care management (PCM) agency must request prior authorization from MassHealth as a prerequisite to payment for personal care attendant (PCA) services. 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).

To ensure the continuation of PCA services, PCM agencies must request prior authorization from the MassHealth agency at least 21 calendar days before the expiration date of the current prior-authorization period. (130 CMR 422.416(C)). The PCM agency must include in its prior-authorization request the documentation described in 130 CMR 422.416(A). (130 CMR 422.416(C)). This documentation includes:

- (1) the completed MassHealth Application for PCA Services and MassHealth Evaluation for PCA Services;
- (2) the completed MassHealth Prior Authorization Request form;
- (3) any documentation that supports the member's need for PCA services. This documentation must:
 - (a) identify a permanent or chronic disability that impairs the member's ability to perform ADLs and IADLs without physical assistance; and
 - (b) state that the member requires physical assistance with two or more ADLs as defined in 130 CMR 422.410(A).
- (4) the completed and signed assessment of the member's ability to manage the PCA program independently. (130 CMR 422.416(C)).

The MassHealth agency will continue to pay for PCA services during its review of the new PA request only if the MassHealth agency has received the new prior-authorization request at least 21 calendar days prior to the expiration of the current prior-authorization period. (130 CMR 422.416(C)). If the MassHealth agency does not receive the new prior-authorization request at least 21 calendar days before the expiration date, the MassHealth agency may stop payment for PCA services after the expiration date. (130 CMR 422.416(C)).

Pursuant to 130 CMR 422.422(D), reevaluations must be conducted by a registered nurse or

LPN under the supervision of a registered nurse, and must include a review of the service agreement and the assessment by qualified PCM agency staff. If appropriate, an occupational therapist may be involved in the process. Requirements cited in 130 CMR 422.422(C)(2) through (4) also apply to reevaluations. These requirements include:

- (2) The evaluation must take place in the member's presence and in the member's actual or proposed place of residence in the community, or in the following locations, if these situations apply:
 - (a) at the transitional living program site where the member lives if the member has completed functional skills training, but is unable to find housing; or
 - (b) at a hospital or institution if the member has been hospitalized or institutionalized for an extended period, unless the MassHealth agency exercises its option of conducting the initial evaluation in accordance with 130 CMR 422.416(D).
- (3) All evaluations must be completed on the MassHealth evaluation form by the registered nurse or the occupational therapist who conducted the evaluation.
 - (a) The completed evaluation must be reviewed, approved, and signed by the member, the member's legal guardian, the member's physician, nurse practitioner, or physician assistant, and the member's surrogate or administrative proxy, if appropriate.
 - (b) The completed evaluation must be sent to the MassHealth agency, with the documentation described in 130 CMR 422.416(A).
- (4) The MassHealth agency may defer or deny requests for prior authorization for PCA services where:
 - (a) the applicant does not meet the eligibility criteria defined in 130 CMR 422.403;
 - (b) the standard MassHealth personal care application and evaluation forms are not submitted or are incomplete;
 - (c) the evaluation provides insufficient information to determine if PCA services are medically necessary;
 - (d) the member or the surrogate or administrative proxy has not signed the evaluation;
 - (e) the surrogate or administrative proxy information is not provided in the format requested by the MassHealth agency, or the PCM agency has determined that a surrogate or administrative proxy is required but one is not identified in the evaluation; or
 - (f) the services being requested in the evaluation are not covered under the

MassHealth PCA program. (See 130 CMR 422.410 through 422.412.)

In this case, the MassHealth agency was correct in denying the prior authorization request for a continuation of services as the PCM agency did not meet the requirement of having the completed evaluation reviewed, approved, and signed by the member, the member's legal guardian, the member's physician, nurse practitioner, or physician assistant, and the member's surrogate or administrative proxy, if appropriate. (130 CMR 422.422(C)(3); 130 CMR 422.422(D)). The MassHealth agency provided the PCM agency with ample opportunity to meet these requirements, but they failed to do so.

This appeal is denied.

Order for MassHealth

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.

Susan Burgess-Cox
Hearing Officer
Board of Hearings

cc:

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