

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Approved in part; Denied in part	Appeal Number:	2303381
Decision Date:	6/23/2023	Hearing Date:	05/31/2023
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

Appeal Decision:	Approved in part; Denied in part	Issue:	Personal Care Attendant Services
Decision Date:	6/23/2023	Hearing Date:	05/31/2023
MassHealth's Rep.:	Donna Burns, RN, Optum	Appellant's Rep.:	Mother
Hearing Location:	Springfield MassHealth Enrollment Center Room	Aid Pending:	No

Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapter 118E, Chapter 30A, and the rules and regulations promulgated thereunder.

Jurisdiction¹

Through a notice dated 04/19/2023, MassHealth modified the appellant's prior authorization request for personal care attendant (PCA) services from a requested 31:00 day/evening hours per week plus 2 daily nighttime attendant hours to 20:15 day/evening hours per week plus 2 daily night time attendant hours for dates of service from [REDACTED] to 0 [REDACTED] (130 CMR 422.410; Exhibit 1). A timely appeal was filed on the appellant's behalf by his mother² on 04/25/2023 (130 CMR 610.015(B); Exhibit 2). Modifications of a request for assistance are valid grounds for appeal (130 CMR 610.032).

¹ 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.

² The appellant is a minor child. His mother represented him in this appeal. See Exhibits 2 and 4.

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 and 450.204, in modifying appellant's prior authorization request for personal care attendant services.

Summary of Evidence

A fair hearing took place at the Springfield MassHealth Enrollment Center on 05/31/2023 (Exhibit 3). The appellant's mother appeared in person with the appellant's PCA. The MassHealth representative appeared telephonically.

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 11/29/2022 from his PCA provider, Stavros, Inc. (Provider), and is a re-evaluation for the dates of service of [REDACTED] to [REDACTED]. In the prior authorization request for PCA services, the provider requested 31:00³ day/evening hours per week plus 2 daily nighttime attendant services.

The appellant is [REDACTED] years of age and he lives with his mother and brother. The primary diagnosis affecting his ability to function independently is autism (Exhibit 4).

The Optum representative testified that on [REDACTED], MassHealth modified the PCA request to 20:15 day/evening hours per week plus 2 daily nighttime attendant services. MassHealth modified the request for PCA services in the Activity of Daily Living (ADL) tasks of mobility, assistance with stairs, transfers, bathing, dressing, bladder care, and assistance with medications (Exhibits 1 and 4).

Mobility

The appellant's PCA provider requested 3 minutes, 6 times per day, 7 days per week (3 X 6 X 7)⁴ (weekdays) and 3 X 10 X 2 (weekends) for assistance with mobility, assisting the appellant from room to room. The provider also requested 3 X 4 X 7 for assistance up and down the stairs and 3 X

³ PCA time is referred to in this format, 31:00, to signify 31 hours and 00 minutes.

⁴ PCA time designated in this manner, (i.e., 3 X 6 X 7) means 3 minutes, 6 times per day, 7 days per week.

2 X 5 (weekdays) and 3 X 4 X 2 (weekends) for assistance with transfers in and out of bed, in and out of a chair, and to and from the bus. The provider noted that the appellant uses the following medical equipment: car seat, PEC and Vantage communication systems, door, window and cabinet locks, handicap placard, autism swing, and weighted pillow. He is physically capable of moving and transferring, however due to level 3 autism and his global developmental delays he needs assistance to ambulate and transfer at random times throughout the day which are unpredictable. He also requires moderate assistance in arm guide. The appellant is a flight risk and safety systems have been installed to keep him from running away (Exhibit 4).

MassHealth denied the requested time for assistance with mobility from room to room and for assistance with stairs. The MassHealth representative testified that the appellant has documented ability to walk on his own. Any assistance he might need for mobility and transfers would be in the form of cuing, supervision, or coaching, which are not covered services. The MassHealth representative testified that she would approve 3 X 2 X 5 for assistance to and from the bus on school days.

The appellant's mother appeared at the fair hearing and testified with the assistance of the appellant's PCA. She testified that the appellant needs a "guide-along," he does not always comply with instructions, and he engages in risky behaviors. His autism level is "so high, he needs someone at all times." He requires someone to be with him all day, and when he is in the car. The appellant "plops, flops," and will not move at times. He needs someone to "hold his hand" when going up and down the stairs because of the risk of falls. His bedroom is on a separate level from the rest of the living area.

Bathing

The appellant's PCA provider requested 30 X 2 X 7 for assistance with bathing him twice daily and 5 X 1 X 7 for assistance washing his hair. The provider noted that the appellant "requires physical assistance with sponge/bed bath and drying, including routine transfers; physical assistance with tub bathing and drying, including routine transfers. He is dependent with all bathing activities. The appellant weighs 72 lbs. and is resistant and potentially assaultive during ADLs with water tasks due to his severe sensory issues. He is dependent for all washing, rinsing, drying. He needs to take breaks to limit aggressive acting out due to tactile discomfort. Bathing is a two-person assistance, mother helps PCA for safety. The appellant requires two complete baths per day due to bowel incontinence as well as urine incontinence and messy eating. He attempts to leave tub and often leaves the tub and needs to be guided back using the arm in arm guide hold. The appellant's mother has been trained in non-violent crisis intervention designed by the Crisis Prevention Institute and she is used during moments of crisis. CPI training ensures safety during assaultive and disruptive behavior" (Exhibit 4).

MassHealth modified the time requested for bathing to 25 X 1 X 7 for daily bathing, including hair wash, and 10 X 1 X 7 for assistance with an evening quick wash (Exhibits 1 and 4). The MassHealth

representative testified that the documentation does not support the requested amount of time, based on the appellant's needs and abilities. She also stated that the appellant had been approved for 10 X 1 X 7 last year for a quick wash.

The appellant's mother testified that the appellant needs more time this year than he needed last year. He plays with his feces and puts them in his hair and on his body and clothing. At times he is cooperative, but at others, he is uncooperative. The PCA stated that the appellant is bathed twice a day and it takes 35-40 minutes. The afternoon bath takes a "little less" time, and his hair is washed during both baths.

Dressing

The appellant's provider requested 15 X 2 X 7 for assistance with dressing. The provider noted that the appellant "requires physical assistance with upper extremity dressing; physical assistance with lower extremity dressing; and physical assistance with donning footwear. He requires maximum assistance with all upper and lower extremity dressing, including donning footwear. Dressing takes longer due to weight gain and increased resistant behaviors. He does not like the feeling of clothing on skin. This has gotten worse. He is easier to undress. The appellant requires a minimum of 2 times per day for dressing. He disrobes at inappropriate times. The appellant flops to the ground, fold his legs, sits and is hard to get up and engage him to get dressed. Arm in arm guide holds are applied to redirect him" (Exhibit 4).

MassHealth modified the request for assistance with dressing to 15 X 1 X 7. The MassHealth representative testified that dressing is generally approved once per day, usually for morning dressing. If the appellant needs an additional instance of dressing due to smearing feces, that time is requested and approved under the task of bowel care.

The appellant's mother testified that the appellant is dressed twice a day, more often than not. She explained that dressing a child with autism "proves difficult."

Bladder

The appellant's provider requested 5 X 6 X 5 (weekdays) and 5 X 8 X 2 (weekends) for assistance with bladder care. The provider noted that the appellant requires "physical assistance with toilet hygiene; physical assistance with clothing management; physical assistance with changing absorbent product; and physical assistance with regular transfer. He requires maximum assistance with changing his briefs every 2 hours. The mother is attempting to potty train the appellant. He must have someone with him to keep him on the toilet or he will run off. So far this is not going well, but mother is trying to train him to encourage toileting independence. Longer time for bowel hygiene needed. Dual incontinence. The appellant needs arm in arm guide to transfer to the bathroom and to remain seated for bowel movement. He will pee and stool on the floor and walls without application of behavioral techniques as described" (Exhibit 4).

MassHealth modified the request for assistance with bladder care to 5 X 5 X 5 (weekdays) and 5 X 7 X 2 (weekends). The MassHealth representative testified that this time, as approved, with the time approved for assistance with bowel care will provide the appellant with assistance with toileting every 2 hours during the day.

The appellant's mother responded that she understood and testified that the time, as modified, will meet the appellant's needs.

Assistance with Medications

The appellant's provider requested 5 X 1 X 2 for assistance with medications. The provider noted that the "obligated family member administers all medications when she is not at work. The appellant's mother has two meetings in the evening per week for her side real estate business."

MassHealth denied the time requested for assistance with medications. The MassHealth representative testified that for a minor child, assistance with medications is a parental responsibility that cannot be delegated to a PCA.

The appellant's mother testified that she understood the modification and did not dispute MassHealth's testimony.

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 11/29/2022 from his PCA provider, Stavros, Inc., and is a re-evaluation request for the dates of service of [REDACTED] to [REDACTED] (Testimony; Exhibit 4).

2. In the prior authorization request for PCA services, the provider requested 31:00 day/evening hours of assistance per week plus 2 daily nighttime attendant hours (Testimony; Exhibit 4).
3. The appellant is a ■-year old child who lives with his mother. The primary diagnosis affecting his ability to function independently is autism (Testimony; Exhibit 5).
4. On 01/03/2023, MassHealth modified the PCA request to 20:15 day/evening hours per week. Nighttime attendant hours were approved as requested at 2 hours per night (Testimony; Exhibits 1 and 4).
5. A timely appeal was filed on the appellant's request on 04/25/2023 (Exhibit 2).
6. A fair hearing took place on 05/31/2023. The appellant's mother is his legal guardian who appeared as the appellant's appeal representative (Exhibits 2 and 3).
7. The appellant's PCA provider requested 3 minutes, 6 times per day, 7 times per week (3 X 6 X 7) (weekdays) and 3 X 10 X 2 (weekends) for assistance with mobility, assisting the appellant from room to room. The provider requested 3 X 4 X 7 for assistance up and down the stairs. The provider requested 3 X 2 X 5 (weekdays) and 3 X 4 X 2 (weekends) for assistance with transfers in and out of bed, in and out of a chair, and to and from the bus. The provider noted that the appellant "uses the following medical equipment: car seat, PEC and Vantage communication systems, door, window and cabinet locks, handicap placard, autism swing, and weighted pillow. He is physically capable of moving and transferring, however due to level 3 autism and his global developmental delays he needs assistance to ambulate and transfer at random times throughout the day which are unpredictable. He also requires moderate assistance in arm guide. The appellant is a flight risk and safety systems have been installed to keep him from running away" (Testimony; Exhibit 4).
8. MassHealth denied the request for PCA in the area of mobility for assistance from room to room and up and down the stairs (Testimony; Exhibits 1 and 4).
9. MassHealth approved 3 X 2 X 5 for assistance to and from the school bus on weekdays (Testimony).
10. The appellant's PCA provider requested 30 X 2 X 7 for assistance with bathing him twice daily and 5 X 1 X 7 for assistance washing his hair. The provider noted that the appellant "requires physical assistance with sponge/bed bath and drying, including routine transfers; physical assistance with tub bathing and drying, including routine transfers. He is dependent with all bathing activities. The appellant weighs 72 lbs. and is resistant and

potentially assaultive during ADLs with water tasks due to his severe sensory issues. He is dependent for all washing, rinsing, drying. He needs to take breaks to limit aggressive acting out due to tactile discomfort. Bathing is a two-person assistance, mother helps PCA for safety. The appellant requires two complete baths per day due to bowel incontinence as well as urine incontinence and messy eating. He attempts to leave tub and often leaves the tub and needs to be guided back using the arm in arm guide hold. The appellant's mother has been trained in non-violent crisis intervention designed by the Crisis Prevention Institute and she is used during moments of crisis. CPI training ensures safety during assaultive and disruptive behavior" (Testimony; Exhibit 4).

11. MassHealth modified the appellant's request for assistance with bathing to 25 X 1 X 7 for a morning bath and 10 X 1 X 7 for afternoon/evening quick wash, including hair washing (Testimony).
12. It takes the PCA 35-40 minutes to bathe the appellant in the morning, including washing his hair. The afternoon bath takes a bit less time (Testimony).
13. The appellant's provider requested 15 X 2 X 7 for assistance with dressing. The provider noted that the appellant "requires physical assistance with upper extremity dressing; physical assistance with lower extremity dressing; and physical assistance with donning footwear. He requires maximum assistance with all upper and lower extremity dressing, including donning footwear. Dressing takes longer due to weight gain and increased resistant behaviors. He does not like the feeling of clothing on skin. This has gotten worse. He is easier to undress. The appellant requires a minimum of 2 times per day for dressing. He disrobes at inappropriate times. The appellant flops to the ground, fold his legs, sits and is hard to get up and engage him to get dressed. Arm in arm guide holds are applied to redirect him" (Testimony; Exhibit 4).
14. MassHealth modified the request for assistance with dressing to 15 X 1 X 7 (Testimony; Exhibit 4).
15. Time for assistance dressing the appellant due to a toileting issue is included and approved under the task of toileting (Testimony).
16. The appellant's provider requested 5 X 6 X 5 (weekdays) and 5 X 8 X 2 (weekends) for assistance with bladder care. The provider noted that the appellant requires "physical assistance with toilet hygiene; physical assistance with clothing management; physical assistance with changing absorbent product; and physical assistance with regular transfer. He requires maximum assistance with changing his briefs every 2 hours. The mother is attempting to potty train the appellant. He must have someone with him to keep him on the toilet or he will run off. So far this is not going well, but mother is trying to train him to encourage toileting independence. Longer time for bowel hygiene needed. Dual

incontinence. The appellant needs arm in arm guide to transfer to the bathroom and to remain seated for bowel movement. He will pee and stool on the floor and walls without application of behavioral techniques as described” (Testimony; Exhibits 1 and 4).

17. MassHealth modified the request for assistance with bladder care to 5 X 5 X 5 (weekdays) and 5 X 7 X 2 (weekends).
18. The PCA time for assistance with bladder care, as approved, together with the time approved for assistance with bowel care will provide the appellant with assistance with toileting every 2 hours during the day (Testimony).
19. The appellant’s mother agreed that the PCA time for assistance with bladder care, as modified, would meet the appellant’s needs (Testimony).
20. The appellant’s provider requested 5 X 1 X 2 for assistance with medications. The provider noted that the “obligated family member administers all medications when she is not at work. The appellant’s mother has 2 meetings in the evening per week for her side real estate business” (Testimony; Exhibit 4).
21. MassHealth denied the request for assistance with medications (Testimony; Exhibit 4).
22. Assistance with medications is a parental responsibility for a minor child (Testimony).
23. The appellant’s mother did not dispute the denial of time for assistance with medications (Testimony).

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.

(Emphasis added.)

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 submitted on 11/29/2022 from his PCA provider, Stavros, Inc. The request is a re-evaluation for dates of service from [REDACTED] to [REDACTED]. In the prior authorization request for PCA services, the provider requested 31:00 day/evening hours per week. The appellant is a [REDACTED]-year old child who lives with his mother. The primary diagnosis affecting his ability to function independently is autism.

MassHealth modified the PCA request to 20:15 day/evening hours per week. Nighttime attendant hours were approved as requested at 2 daily nighttime attendant hours. MassHealth modified the request for assistance in the ADLs of mobility, assistance with stairs, transfers, bathing, dressing, bladder care, and assistance with medications. With regard to the modifications MassHealth made in the areas of assistance with bladder care (5 X 5 X 5 and 5 X 7 X 2) and assistance with medications (denied), the appellant's mother testified she understood the reasons for the modifications and did not dispute them. Accordingly, those portions of this appeal are denied.

Mobility

The appellant's PCA provider requested 3 minutes, 6 times per day, 7 times per week (3 X 6 X 7)⁵ (weekdays) and 3 X 10 X 2 (weekends) for assistance with mobility, assisting the appellant from room to room. The provider requested 3 X 4 X 7 for assistance up and down the stairs. The provider requested 3 X 2 X 5 (weekdays) and 3 X 4 X 2 (weekends) for assistance with transfers in and out of bed, in and out of a chair, and to and from the bus. The provider noted that the appellant "uses the following medical equipment: car seat, PEC and Vantage communication systems, door, window and cabinet locks, handicap placard, autism swing, and weighted pillow. He is physically capable of moving and transferring, however due to level 3 autism and his global developmental delays he needs assistance to ambulate and transfer at random times throughout the day which are unpredictable. He also requires moderate assistance in arm guide. The appellant is a flight risk and safety systems have been installed to keep him from running away."

MassHealth denied the time for assistance with mobility, and modified the time requested for transfers to 3 X 2 X 5 for assistance to and from the school bus. The appellant's mother testified that the appellant needs the requested PCA assistance because he "plops and flops," and will not move and that he needs someone to "guide-along" with him because he is at risk of falling.

MassHealth correctly cited to the regulation above that addresses assistance provided in the form of cueing, prompting, supervision, guiding, or coaching is not a covered PCA service. MassHealth's modifications in the area of mobility are supported by the regulations and the facts in the hearing record. Accordingly, this portion of the appeal is denied.

Bathing

The appellant's PCA provider requested 30 X 2 X 7 for assistance with bathing him twice daily and 5 X 1 X 7 for assistance washing his hair. The provider noted that the appellant "requires physical assistance with sponge/bed bath and drying, including routine transfers; physical assistance with tub bathing and drying, including routine transfers. He is dependent with all bathing activities. The appellant weighs 72 lbs. and is resistant and potentially assaultive during ADLs with water tasks due to his severe sensory issues. He is dependent for all washing, rinsing, drying. He needs to take breaks to limit aggressive acting out due to tactile discomfort. Bathing is a two-person assistance, mother helps PCA for safety. The appellant requires two complete baths per day due to bowel incontinence as well as urine incontinence and messy eating. He attempts to leave tub and often leaves the tub and needs to be guided back using the arm in arm guide hold. The appellant's mother has been trained in non-violent crisis intervention designed by the Crisis Prevention Institute and she is used during moments of crisis. CPI training ensures safety during assaultive and disruptive behavior."

MassHealth modified the appellant's request for assistance with bathing to 25 X 1 X 7 for a morning bath and 10 X 1 X 7 for afternoon/evening quick wash. MassHealth cited to the

appellant's abilities and needs as documented in the PA request and the approval of time during the last year period. The appellant's PCA testified credibly that it takes him 35-40 minutes to bathe the appellant in the morning, including washing his hair. The afternoon bath takes a bit less time. I credit the PCA's testimony as he has assisted the appellant with this task and he knew the amount of time it takes to perform the task. Accordingly, this portion of the appeal is approved.

Dressing

The appellant's provider requested 15 X 2 X 7 for assistance with dressing. The provider noted that the appellant "requires physical assistance with upper extremity dressing; physical assistance with lower extremity dressing; and physical assistance with donning footwear. He requires maximum assistance with all upper and lower extremity dressing, including donning footwear. Dressing takes longer due to weight gain and increased resistant behaviors. He does not like the feeling of clothing on skin. This has gotten worse. He is easier to undress. The appellant requires a minimum of 2 times per day for dressing. He disrobes at inappropriate times. The appellant flops to the ground, fold his legs, sits and is hard to get up and engage him to get dressed. Arm in arm guide holds are applied to redirect him."

MassHealth modified the request for assistance with dressing to 15 X 1 X 7. The time approved by MassHealth is for one instance of dressing the appellant in the morning. The appellant's mother testified that the appellant frequently needs to be re-dressed during the day because he smears feces in his hair and on his body. MassHealth testified that any additional dressing time is included with the request for toileting.

MassHealth's decision is based on the relevant facts in the hearing record, as well as the above regulations. Thus, this portion of the appeal is denied.

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

Order for MassHealth

With regard to the modification in the area of bathing, restore all time, as requested (30 X 2 X 7 and 5 X 1 X 7). With regard to the other modifications, 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, 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.

Marc Tonaszuck
Hearing Officer
Board of Hearings

cc:

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