

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Dismissed in part; Denied in part	Appeal Number:	2303442
Decision Date:	6/22/2023	Hearing Date:	05/25/2023
Hearing Officer:	Mariah Burns		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Mary-Jo Elliot, RN for 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:	Dismissed in part; Denied in Part	Issue:	Prior Authorization – Personal Care Attendant
Decision Date:	6/22/2023	Hearing Date:	05/25/2023
MassHealth's Rep.:	Mary-Jo Elliot, RN	Appellant's Rep.:	Pro se
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 April 5, 2023, MassHealth modified the appellant's prior authorization request for personal care attendant services. *See* 130 CMR 450.024(A), 130 CMR 422.10(A)(7), 130 CMR 422.410(B)(1) and Exhibit 1. The appellant filed this appeal in a timely manner on April 26, 2023. *See* 130 CMR 610.015(B) and Exhibit 2. MassHealth's decision to restrict a member's assistance is valid grounds for appeal. *See* 130 CMR 610.032.

Action Taken by MassHealth

MassHealth modified the appellant's prior authorization request for personal care attendant (PCA) services.

Issue

The appeal issue is whether MassHealth was correct in modifying the appellant's prior authorization request for PCA services.

Summary of Evidence

The appellant is a MassHealth Standard member under the age of 65 who is currently receiving PCA services and appeared at hearing by telephone. MassHealth was represented telephonically by a clinical nurse reviewer for Optum, who manages MassHealth's PCA program. The following is a summary of the testimony and evidence presented at hearing:

The appellant suffers from a primary diagnosis of osteoarthritis in addition to right shoulder, back, and knee pain, poor range of motion, stiffness, poor fine motor coordination, depression, hypertension, anginal/blood flow issues, non-insulin dependent diabetes, and weakness. She requires a cane for safe ambulation. MassHealth received a prior authorization request on the appellant's behalf requesting 23 hours and 15 minutes of day and evening PCA hours. After reviewing the appellant's application, MassHealth modified and approved the appellant for 20 hours and 45 minutes of day and evening PCA hours.

Two modifications were made to the appellant's request in the area of bladder care and meal preparation. The appellant requested assistance with bladder care for six minutes, six times per day, seven days per week, which MassHealth modified to five minutes, six times per day, seven days per week because the request exceeded the typical assistance for someone with the appellant's needs. The request for meal prep was for 525 minutes per week. Although MassHealth initially modified that request to 420 minutes, upon hearing testimony from the appellant, MassHealth agreed to provide all requested hours.

The appellant reported that she is able to use a cane and a walker to get to the bathroom, is able to get herself onto the toilet and clean herself after urinating. The only task for which she requires assistance is getting up from the toilet. She did not agree that it takes, on average, five minutes to get up from the toilet and that it can vary from day to day. The MassHealth representative responded that she thinks five minutes is more than enough time to get up from the toilet and that she did not hear or see any evidence to the contrary.

Findings of Fact

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

1. The appellant is a current MassHealth Standard member receiving PCA services. Testimony, Exhibit 5, Exhibit 6.
2. MassHealth received a prior authorization request on the appellant's behalf requesting 23 hours and 15 minutes of day and evening PCA hours. After reviewing the appellant's application, MassHealth modified and approved the appellant for 20 hours and 45 minutes of day and evening PCA hours. Testimony, Exhibit 1.

3. The specific modifications were made in the areas of bladder care and meal preparation. Exhibit 1.
4. After hearing testimony, MassHealth agreed to provide the appellant with the 525 minutes per week she requested for meal preparation. Testimony.
5. With respect to bladder care, the appellant requested assistance with bladder care for six minutes, six times per day, seven days per week, which MassHealth modified to five minutes, six times per day, seven days per week because the request exceeded the typical assistance for someone with the appellant's needs. Exhibit 1, Exhibit 6 at 20-21, Testimony.
6. The appellant is independent with her bladder care with the exception of requiring assistance getting up from and off of the toilet. Testimony.

Analysis and Conclusions of Law

MassHealth requires providers to obtain prior authorization before administering certain medical services. 130 CMR 450.303 and 130 CMR 420.410. PCA services fall into this category, and the regulations governing prior authorization for such services are found at 130 CMR 422 et seq. MassHealth will authorize coverage of PCA services when:

- (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.¹
- (3) The member, as determined by the PCM 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.

130 CMR 422.403 (C). It is undisputed that the appellant is a MassHealth member eligible to receive PCA services. However, in addition to meeting that categorical criteria, all PCA services

¹ ADLs include assistance with mobility, medications, bathing or grooming, dressing or undressing, passive range of motion, and toileting, while IADLs include household services (such as laundry, shopping, and housekeeping), meal preparation and clean-up, transportation, and other special needs codified in the regulations. 130 CMR 422.410(A) and (B).

must be medically necessary for prior authorization to be approved. A service is determined to be 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...

...Medically necessary services must be of a quality that meets professionally recognized standards of health care, and must be substantiated by records including evidence of such medical necessity and quality.

130 CMR 450.204(A)-(B). Although the appellant has shown that she requires some assistance with her bladder care, her testimony is that she only needs help getting up from the toilet. She has not provided any credible evidence that it takes her longer than five minutes to get up. Therefore, MassHealth was within its discretion to modify her request for assistance with bladder care. The appeal is thereby denied with respect to that task.

In the area of meal preparation, MassHealth has agreed to provide the appellant with 525 minutes of assistance per week. As meal preparation is no longer an area in dispute, the appeal is thereby dismissed with respect to that task.

Order for MassHealth

Approve prior authorization for PCA services for meal preparation 525 minutes per week, as discussed at hearing.

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.

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.

Mariah Burns
Hearing Officer
Board of Hearings

cc:

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