

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2303831
Decision Date:	7/7/2023	Hearing Date:	06/09/2023
Hearing Officer:	Alexandra Shube		

Appearance for Appellant:

Via telephone:



Appearance for MassHealth:

Via telephone:

Mary-Jo Elliott, RN



*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 – PCA
Decision Date:	7/7/2023	Hearing Date:	06/09/2023
MassHealth's Rep.:	Mary-Jo Elliott, RN	Appellant's Rep.:	Mother/Surrogate
Hearing Location:	Quincy Harbor South Remote	Aid Pending:	Yes

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 May 2, 2023, MassHealth modified the appellant's prior authorization request for personal care attendant (PCA) services (Exhibit 1). The appellant filed this appeal in a timely manner on May 9, 2023 (see 130 CMR 610.015(B) and Exhibit 2). Modification and/or denial of PCA hours is valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth modified the appellant's prior authorization request for 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 MassHealth representative appeared via telephone and identified herself as a registered nurse. She testified that the documentation submitted showed that the appellant was a minor child with a primary diagnosis of autism spectrum disorder. He is non-verbal and has developmental delays and sensory integration deficits. The appellant's personal care management (PCM) agency submitted a prior authorization for PCA services requesting 11 hours and 45 minutes of day/evening hours per week and 2 nighttime hours per night for the dates of service of May 12, 2023 through May 11, 2024. On May 2, 2023, MassHealth modified the request to 11 hours and 15 minutes of day/evening hours and 2 nighttime hours per night. The MassHealth representative testified that there was one modification made addressing the time allowed for transfers.

Under mobility, the appellant's provider requested 3 minutes, 2 times per day, 5 days per week for transfers to and from the van for school, Monday through Friday. The documentation shows that the appellant is independent with mobility and repositioning and requires minimum level of assist for transfers. The appellant is independent with mobility and transfers within the home, but he requires hand-held assistance to and from the school van due to no safety awareness. The MassHealth representative testified that this request for assistance is primarily for supervision, which is not covered by the PCA program. Additionally, the appellant is █ years old and walking a child of that age to and from the school van is a parental responsibility regardless of the diagnosis, as most █-year-olds are not expected to go to the school bus by themselves.

The appellant's mother appeared via telephone and testified that her son is severely autistic and non-verbal. He has no safety awareness and needs adult supervision at all times. He is physically able to walk, but needs this help for safety reasons. She stated that time for transfers to the school van have been approved in the past.

The MassHealth representative responded that during the Covid public health emergency, reviewers were a bit more lax in taking time away. Additionally, the documentation or circumstances could have been different; however, safety and supervision are not covered by the PCA program.

Findings of Fact

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

1. The appellant is a █-year-old MassHealth member with a primary diagnosis of autism spectrum disorder (Testimony and Exhibit 5).
2. MassHealth received a prior authorization request for PCA services requesting 11 hours and 45 minutes of day/evening hours per week and 2 nighttime hours per night for the dates of

service of May 12, 2023 through May 11, 2024 (Testimony and Exhibit 5).

3. On May 2, 2023, MassHealth modified the request to 11 hours and 15 minutes of day/evening hours and 2 nighttime hours per night (Testimony and Exhibit 5).
4. The appellant filed a timely appeal on May 9, 2023 (Exhibit 2).
5. The appellant seeks time for PCA assistance with transfers as follows: 3 minutes, 2 times per day, 5 days per week (Testimony and Exhibit 5).
6. MassHealth did not approve any time for transfers (Testimony and Exhibit 5).
7. The appellant is independent with mobility and transfers within the home, but requires supervision to and from the school van due to no safety awareness (Testimony and Exhibit 5).

Analysis and Conclusions of Law

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 or grooming;
 - (d) dressing or undressing;
 - (e) range-of-motion exercises;
 - (f) eating; and
 - (g) toileting.
- (4) The Division has determined that the PCA services are medically necessary and has granted a prior authorization for PCA services.

See 130 CMR 422.403(C).

The requested services must also be medically necessary for the prior authorization to be approved. MassHealth 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 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 Division. Services that are less costly to the Division include, but are not limited to, health care reasonably known by the provider or identified by the Division 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.

(B) 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. A provider must make those records, including medical records, available to the Division upon request. (See 42 U.S.C. 1396a(a)(30) and 42 CFR 440.230 and 440.260.)

(C) A provider's opinion or clinical determination that a service is not medically necessary does not constitute an action by the MassHealth agency.

See 130 CMR 450.204

Pursuant to 130 CMR 422.410(A), 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 or 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.

Pursuant to 130 CMR 422.410(B), 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 Division as being instrumental to the health care of the member.

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.

See 130 CMR 422.412 (emphasis added).

The appellant's request for PCA assistance with transfers to and from the school van is denied. Based on documentation and testimony, the appellant is independent with transfers within the home, but needs supervision to and from the school van for safety reasons. While that supervision is important, MassHealth does not allow time in the PCA program for supervision, prompting, guiding, or coaching. Furthermore, this task falls under the responsibility of a parent. Most children of the appellant's young age, regardless of any diagnosis, would not be expected to walk to and from the school van by themselves.

For these reasons, the 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.

Alexandra Shube
Hearing Officer
Board of Hearings

cc:

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