

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



**Appeal Decision:** Denied

**Appeal Number:** 2304434

**Decision Date:** 8/4/2023

**Hearing Date:** 07/07/2023

**Hearing Officer:** Radha Tilva

**Appearance for Appellant:**



**Appearance for MassHealth:**

Donna Burns, Optum Representative



*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>	Denied	<b>Issue:</b>	PA - PCA
<b>Decision Date:</b>	8/4/2023	<b>Hearing Date:</b>	07/07/2023
<b>MassHealth's Rep.:</b>	Donna Burns	<b>Appellant's Rep.:</b>	Fiancée
<b>DHearing Location:</b>	Quincy Harbor South	<b>Aid Pending:</b>	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 May 22, 2023, MassHealth modified appellant's prior authorization for personal care attendant (PCA) services to 36 day time hours per week for the prior authorization period of May 22, 2023 to May 21, 2024 (Exhibit 1). The appellant filed this appeal in a timely manner on May 31, 2023 (see 130 CMR 610.015(B) and Exhibit 2). Challenging a prior authorization request for PCA services is valid grounds for appeal (see 130 CMR 610.032).

## Action Taken by MassHealth

MassHealth modified appellant's prior authorization request for personal care attendant services to 36-day time hours per week and 2 night-time hours per night for the prior authorization period of May 22, 2023, to May 21, 2024.

## Issue

The appeal issue is whether MassHealth was correct in modifying appellant's prior authorization request for PCA services to 36-day time hours per week?

## Summary of Evidence

MassHealth was represented by a RN who appeared by telephone and testified to the following: appellant is a woman in her mid-forties who had a head injury which resulted in right sided weakness, depression, and left upper extremity weakness (Exhibit 5, p. 8). MassHealth received a PCA re-evaluation request on May 5, 2023 from Adlib Inc. for 44 hours and 15 minutes of day/evening hours per week and 2 night time hours per day of PCA hours. On May 22, 2023, MassHealth modified that request to 36 hours of day/evening hours from May 22, 2023 to May 21, 2024. MassHealth made 5 modifications.

### **Mobility**

MassHealth received a request from the PCM agency requesting 8 minutes, 8 times a day, 7 days a week for mobility. MassHealth modified this request to 3 minutes, 8 times a day, 7 days a week. The MassHealth representative stated that the reason for this modification was that the requested time was longer than ordinarily required and that the time for mobility is only for the time it takes to get from one room to another and does not include getting up or transfers.

Appellant was represented by her fiancée who stated that he does more than 36 hours per week of PCA services. He stressed that she requires 24/7 care. With respect to mobility, the fiancée explained that appellant has a power wheelchair, but they cannot use it in the house as it does not fit. Thus, she uses a walker and someone has to be with her when she walks because one side of her body is weak. She must move 10 to 15 times a day from room to room, but he cannot say how long it takes as he has not timed it.

### **Transfers**

Appellant's agency requested 8 minutes, 2 times a day, 7 days a week for transfers which was modified to 5 minutes, 2 times a day, 7 days a week. The MassHealth representative suggested perhaps not enough transfers were requested. The representative further stated that the agency reported that transfers were necessary to assist appellant in and out of bed to recliner. The documentation, thus, made it seem like she was in the recliner all day.

Appellant's representative stated that she is not in the recliner all day and that she is constantly moving from room to room throughout the day. The representative further testified that it does not take her more than a minute or two to get up.

### **Passive Range of Motion**

Appellant's agency requested 5 minutes, 3 times a day, 7 days a week for each extremity. This was modified to 5 minutes, 2 times a day, 7 days a week for each extremity. The MassHealth representative explained that she has 40 minutes a day to perform the passive range of motion and stated that passive range of motion should only be performed on the side that has issues and

is weak. Moreover, the representative explained that passive range of motion is not for using the bike and is only for passive range of motion exercises that are hands on.

The appellant's fiancée stated that she has a bike that she uses to help with range of motion. The representative further stated that appellant's left hand works perfectly fine. The appellant will grab the arm and try to stretch it out, but he cannot give a timetable for how long it takes or how many times a day he does that.

### **Housekeeping**

The MassHealth representative explained that appellant's agency requested 60 minutes once a week for housekeeping. MassHealth modified that request to 45 minutes per week as appellant lives with other consumers. MassHealth explained that 45 minutes is the typical time it allots for housekeeping if the member is living with other consumers. The PCA is responsible for only appellant's space not that of other consumers in the home. The representative explained that housekeeping includes sweeping, vacuuming, wiping counters, and cleaning bathrooms, but does not include doing dishes or laundry and shopping as those fall into other categories.

The appellant's fiancée stated that he lives with appellant in an addition off her parent's house. The representative further stated that he cannot put a timetable on how long it takes him to do housekeeping, but he does do tasks like cleaning the bathroom daily.

### **Medical Transport**

The MassHealth representative stated that appellant's agency requested 47 minutes per week for medical transport and MassHealth modified that request to 31 minutes per week. MassHealth modified the request for physical therapy appointments to 20 visits per week. The MassHealth representative explained that MassHealth generally only approved 20 visits for the calendar year. The representative looked into the system, but did not find a prior authorization request for more physical therapy appointments. If the appellant gets approved for more physical therapy appointments then she can have her PCM agency request more time for medical transport to those appointments. All of the other time requested for medical transport was approved in full.

The appellant's fiancée had no comment with respect to medical transport, but stated that he does not quite understand how the time was decided as he spends over hundred hours a week taking care of appellant.

## **Findings of Fact**

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

1. MassHealth received a PCA re-evaluation request on May 5, 2023 from Adlib Inc. for 44 hours and 15 minutes of day/evening hours per week and 2 night time hours per day of PCA hours.
2. On May 22, 2023, MassHealth modified that request to 36 day/evening hours from May 22, 2023 to May 21, 2024.
3. Appellant is a woman in her mid-forties who had a head injury which resulted in right sided weakness and depression.
4. Appellant requested 8 minutes, 8 times a day, 7 days a week for **mobility** which was modified to 3 minutes, 8 times a day, 7 days a week.
5. Appellant requested 8 minutes, 2 times a day, 7 days a week for **transfers** which was modified to 5 minutes, 2 times a day, 7 days a week.
6. Appellant requested 5 minutes, 3 times a day, 7 days a week for **passive range of motion** for each extremity. MassHealth approved 5 minutes, 2 times a day, 7 days a week for each extremity for passive range of motion.
7. For **housekeeping** appellant requested 60 minutes per week which was modified to 45 minutes per week.
8. **Medical transport** was modified from 47 minutes per week to 31 minutes as appellant was only approved for 20 physical therapy visits from MassHealth.

## Analysis and Conclusions of Law

PCA services requested must meet medical necessity criteria as defined at 130 CMR 450.204, below:

(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.

In addition to being medically necessary as defined above, time requested for PCA services must comport with the following guidelines at 130 CMR 422.410(A):

(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.

When determining the number of hours of physical assistance needed for the PCA to perform instrumental activities of daily living (IADLs), such as meal preparation, 130 CMR 422.410(C) states the following:

(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 MassHealth representative approved **mobility** for 3 minutes, 8 times a day, 7 days a week as that was longer than ordinarily required as time for mobility only includes the time it takes to get from one room to another, not the actual transfer or getting in and out of bed. The appellant's fiancée stated that she must move 10 to 15 times per day from room to room, but he cannot say how long it takes because he has not timed it. Appellant has failed to provide sufficient evidence to support that each mobility assist takes longer than 3 minutes. If appellant requires more than 8 mobility assists throughout the day, she can ask her PCM agency to put in for an adjustment to accommodate that request. The modification to mobility stands and the appeal as to mobility is denied.

With respect to **transfers** MassHealth modified the time requested to 5 minutes, 2 times a day, 7 days a week. Appellant's representative stated that appellant has lots of transfers in a day (more than 2), but that each transfer takes only a minute or two. The evidence and testimony presented support MassHealth decreasing the time per transfer down to 5 minutes as appellant's fiancée actually testified that a transfer only takes him one to two minutes to complete. If appellant requires more than 2 transfers per day, she can ask her PCM agency to put in for an adjustment to accommodate that request. The modification to transfer stands and the appeal as to transfers is denied.

For **passive range of motion** MassHealth modified the request to 5 minutes, 2 times a day, 7 days a week for each extremity. Thus, the total approved time per day for passive range of motion was 40 minutes. The appellant's fiancée was unable to persuasively support that he performs more than 40 minutes a day of passive range of motion.

For **housekeeping** MassHealth modified the time requested to 45 minutes per week as appellant lives with another consumer. The appellant's fiancée did not dispute that appellant lives with another consumer though did state that he lives with her in a separate addition off the house. The appellant's fiancée lives with appellant in the addition. Thus, time should only be allotted for appellant's individual space, not shared space. I find that 45 minutes per week is sufficient time for the PCA to clean appellant's portion of her home. The appeal as to housekeeping is denied.

With respect to medical transport MassHealth modified the time requested to 31 minutes per week to accommodate the fact that MassHealth did not have a prior authorization for more than 20 physical therapy visits. MassHealth's testimony is persuasive. Appellant can submit for an

adjustment if she gets more than the 20 physical therapy visits approved by MassHealth. The appeal as to medical transport is denied.

For the reasons explained above, the appeal is DENIED as to all of MassHealth's modifications.

## **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.

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Radha Tilva  
Hearing Officer  
Board of Hearings

cc:

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