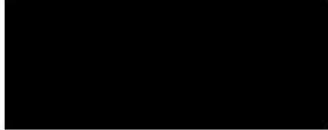


Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2304652
Decision Date:	09/19/2023	Hearing Date:	07/12/2023
Hearing Officer:	Christine Therrien	Record Open to:	08/02/2023

Appearance for Appellant:
Pro se

Appearance for MassHealth:
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:	PCA – modification to requested time
Decision Date:	09/19/2023	Hearing Date:	07/12/2023
MassHealth's Rep.:	Mary-Jo Elliott, RN	Appellant's Rep.:	Pro se
Hearing Location:	Quincy Harbor South - telephonic		

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 5/23/23, MassHealth modified the appellant's Prior Authorization (PA) request for MassHealth Personal Care Attendant (PCA) benefits because MassHealth determined the services were not medically necessary. (130 CMR 410.303, 130 CMR 410.204, and Exhibit 1). The appellant filed this appeal in a timely manner on 6/7/23. (130 CMR 610.015(B) and Exhibit 2). Denial of assistance is a valid ground for appeal. (130 CMR 610.032). The record was left open until 8/2/23. (Exhibit 6).

Action Taken by Optum MassHealth

MassHealth modified the appellant's request for PCA services.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 422.410, 422.412, and 450.204, in modifying the appellant's PA request for PCA services.

Summary of Evidence

The MassHealth representative testified that she is a registered nurse who works for Optum, the MassHealth contractor that makes the personal care attendant (PCA) decisions. The MassHealth representative testified that a prior authorization request for PCA services was received on the appellant's behalf from her PCA provider, Age Span, and is an initial evaluation request for the dates of service of 4/27/23 – 4/26/24. In the prior authorization request for PCA services, the provider requested 19 hours and 15 minutes of day/evening hours per week and zero nighttime PCA hours per day. The primary diagnoses listed in the prior authorization are left rotator cuff repair and PTSD. (Exhibit 5).

The MassHealth representative testified that MassHealth modified the PCA request for assistance with grooming, dressing, undressing, toileting, and medication to 0 day/evening hours per week. The MassHealth representative testified that the provider did not indicate the appellant's condition impacts two activities of daily living (ADLs). MassHealth based its modifications on the documentation included with the prior authorization request and a determination that the request was not medically necessary.

The appellant testified that she has a torn rotator cuff that cannot be repaired because she had a very bad outcome when she had her other rotator cuff repaired. The appellant testified that it hurt to lift her arm above her head. The record was left open to allow the appellant the opportunity to submit documentation of her condition and her prognosis. (Exhibit 6).

The appellant submitted a letter from her treating physician which states; "[s]he had an arthroscopic left rotator cuff repair with [REDACTED] on [REDACTED]. Following surgery, she has had persistent left-sided hand pain. She has undergone extensive occupational therapy and has been evaluated by the hand surgery service at Mass General Brigham." The documentation includes a letter from the appellant's treating Nurse Practitioner which further states; "[s]he has been struggling with debilitating left hand pain and weakness for the last 14 months after a left shoulder surgery, determined to be chronic regional pain syndrome, type II. She also has pain in her right arm due to a right rotator cuff tear, and is unable to get surgery due to complications from the left shoulder surgery. She is unable to bathe herself, perform personal hygiene, and unable to cook for herself. She would benefit from having PCA services at home."

The MassHealth representative reviewed the submissions and issued a determination that "[p]er the summary, an MRI and EMG show no structural abnormalities or nerve damage. The plan outline indicated managing the symptoms medically. MassHealth stands on the denial of PCA services based on the assessment plan suggested by Dr. DeAngelis to manage her symptoms with a formal pain service consult to improve pain and stiffness."

Findings of Fact

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

1. A prior authorization request for PCA services was received on the appellant's behalf from her PCA provider, Age Span, and is an initial evaluation request for the dates of service of 4/27/23 – 4/26/24.
2. The provider requested 19 hours and 15 minutes of day/evening hours per week and zero nighttime attendant hours a day.
3. The primary diagnoses listed in the prior authorization are left rotator cuff repair and PTSD.
4. The record was left open to allow the appellant the opportunity to submit documentation of her condition and prognosis.
5. The appellant submitted letters from her providers stating she was determined to have chronic regional pain syndrome, type II in her left arm, and a torn rotator cuff in her right shoulder.
6. MassHealth's review of the documentation was that an MRI and EMG showed no structural abnormalities or nerve damage, and the plan outline indicated managing the symptoms medically.

Analysis and Conclusions of Law

MassHealth will pay for PCA services provided to MassHealth members who can be appropriately cared for in the home. (130 CMR 422.401 et seq.). The personal care agency determines the extent of the personal care services a paid PCA provides. (130 CMR 422.403).

The requested services must also be medically necessary for approval of a prior authorization. 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.

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.

To be eligible for PCA services MassHealth must determine that the PCA services are medically necessary, the member's disability must be permanent or chronic in nature and the member must be functionally unable to perform two or more ADLs as defined in 130 CMR 422.410(A).

130 CMR 422.410: Activities of Daily Living and Instrumental Activities of Daily Living

- (A) Activities of Daily Living. 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.

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).

After a review of additional evidence, MassHealth maintained that the appellant's PCA time for assistance with grooming, dressing, undressing, toileting, and medication because the appellant's condition is not permanent or chronic. Additionally, the appellant does not meet the medical necessity guidelines because an MRI and EMG showed no structural abnormalities or nerve damage, and the plan outline indicated managing the symptoms medically. The appellant was unable to meet her burden of showing MassHealth's modification was not correct. As a result, 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.

Christine Therrien
Hearing Officer
Board of Hearings

cc:

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