

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2308008
Decision Date:	11/7/2023	Hearing Date:	10/13/2023
Hearing Officer:	Mariah Burns		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Robin Brown, OTR/L 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:	Denied	Issue:	Prior Authorization; Personal Care Attendant Services; Activities of Daily Living
Decision Date:	11/7/2023	Hearing Date:	10/13/2023
MassHealth's Rep.:	Robin Brown, OTR/L	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 August 7, 2023, MassHealth denied the appellant's prior authorization request for personal care attendant (PCA) services because MassHealth determined that the appellant does not need assistance with two or more Activities of Daily Living (ADLs). *See* 130 CMR 422.403(C)(3) and Exhibit 1. The appellant filed this appeal in a timely manner on September 7, 2023. *See* 130 CMR 610.015(B) and Exhibit 2. Denial of assistance is valid grounds for appeal. *See* 130 CMR 610.032.

Action Taken by MassHealth

MassHealth denied the appellant's prior authorization request for personal care attendant services.

Issue

The appeal issue is whether MassHealth was correct in determining that the appellant does not

need assistance with two or more Activities of Daily Living, disqualifying her from the MassHealth PCA program.

Summary of Evidence

The appellant is an adult MassHealth member under the age of 65 who represented herself telephonically at hearing. MassHealth was represented by a licensed occupational therapist who works for Optum, the third-party entity that operates MassHealth's PCA program. The following is a summary of the evidence provided and the testimony given at hearing.

On July 18, 2023, a prior authorization request was submitted on the appellant's behalf for 13 hours and 30 minutes of day/evening PCA hours and 14 nighttime hours per week. The request specifically indicated that the appellant requires assistance with mobility transfers, bathing, dressing and undressing, and toileting. According to the MassHealth representative, PCA operating standards require evaluations and recommendations from both a nurse and an occupational therapist for initial requests. In the case of the appellant, such evaluations were conducted. The MassHealth representative testified that the occupational therapist would be specifically trained on how to conduct these types of evaluations and meet with the applicant and has them demonstrate each of the tasks. The occupational therapist then generates a report that is a summary of objective evaluation based on skilled observation of the consumer and formal testing that uses an objective scoring standard. The nursing report would rely largely on what the consumer tells them and does not meet with the consumer in person. The MassHealth representative reported that, when evaluating PCA prior authorization requests, reviewers rely heavily on the occupational therapy report due to its objective data gathering methods.

In this case, the occupational report generated on the appellant's behalf indicated that she, at times, needs assistance with bathing and bathing transfers, but explained devices that could be used, and MassHealth would pay for, that would achieve the same outcome as in-person assistance. The MassHealth representative emphasized the importance of the report indicating that the appellant needs help at times, as it is not something that she suffers from chronically. There were no other ADLs with which the occupational therapist found that the appellant needed assistance. The nursing report found that the appellant did need assistance with multiple ADLs, but the MassHealth representative pointed out that the report relied entirely on what the appellant reported and was not based on any observations of the nurse. As such, MassHealth relied on the occupational therapy report in denying the appellant's request for PCA hours.

The appellant reported that she agrees that she does not require assistance with any ADLs beyond getting into and out of her third-floor apartment. She indicated that she is independent on all other ADL tasks.

Findings of Fact

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

1. The appellant is a MassHealth member over the age of 65. Testimony, Exhibit 4.
2. On July 18, 2023, a prior authorization request was submitted on the appellant's behalf for 13 hours and 30 minutes of day/evening PCA hours and 14 nighttime hours per week. The request specifically indicated that the appellant requires assistance with mobility transfers, bathing, dressing, and undressing, and toileting. Exhibit 5.
3. MassHealth PCA operating standards require an evaluation from both a nurse and an occupational therapist for an initial request. The occupational therapist's report reflects an objective scoring standard based on the therapist's own observations of the applicant's ability to complete a given task. The nursing report typically relies on input from the consumer and does not involve an in-person observation. For those reasons, MassHealth reviewers lean more heavily on recommendations made by the occupational therapist. Testimony.
4. In the case of the appellant, the occupational therapist found that she needs assistance with bathing and dressing at times, but not always. Testimony, Exhibit 5 at 39-40.
5. There are less expensive medical devices that could assist the appellant and meet her needs. Testimony, Exhibit 5 at 40.
6. The appellant reported at hearing that she only needs assistance getting into and out of her third-floor apartment. 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

¹ ADLs include assistance with mobility, medications, bathing, or grooming, dressing or

- (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). ADLs are defined at 130 CMR 422.410(1) as follows:

(A) Activities of Daily Living (ADLs). Activities of daily living include the following categories of activities. Any number of activities within one category of activity is counted as one ADL

- (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 bathing, personal hygiene, or grooming;
- (4) dressing: 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 or bladder needs.

in addition to meeting those categorical criteria, all PCA services 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

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).

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).

In this case, the MassHealth representative presented credible evidence as to why the occupational therapy report was a more reliable source of evaluation than the nursing documentation. The occupational therapy report, which was conducted in-person by an individual who has specific training on evaluation of the PCA tasks, concluded that although the appellant requires assistance with some bathing and dressing activities at time, her needs could be met by less expensive means that would all be covered by MassHealth. The appellant confirmed that assessment at hearing when she testified that her challenge is with getting in and out of her third-floor apartment, and she is otherwise independent with her ADLs. As such, the appellant is not an appropriate candidate for the MassHealth PCA program, and MassHealth was within its discretion to deny her prior authorization request.

For the forgoing 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.

Mariah Burns
Hearing Officer
Board of Hearings

cc:

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