

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2308802
Decision Date:	11/17/2023	Hearing Date:	October 31, 2023
Hearing Officer:	Stanley M. Kallianidis		

Appellant Representative:

Pro Se

MassHealth Representative:

Donna Burns, RN



*Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
Board of Hearings
100 Hancock Street, 6th Floor
Quincy, MA 02171*

APPEAL DECISION

Appeal Decision:	Approved	Issue:	Medical Necessity of PCA Services
Decision Date:	11/17/2023	Hearing Date:	October 31, 2023
MassHealth Rep.:	Donna Burns, RN		

Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapter 118E, Chapter 30A, and the rules and regulations promulgated thereunder.

Jurisdiction

On September 15, 2023, MassHealth modified the appellant's prior authorization request for personal care attendant (PCA) services because it determined that the request was not medically necessary in all areas (see 130 CMR 450.204 and Exhibit 1). The appellant filed this appeal in a timely manner on September 23, 2023 and was granted aid-pending status (see 130 CMR 610.015 and Exhibit 2). A dispute over the amount of assistance is valid grounds for appeal (see 130 CMR 610.032). Following the appellant's request to reschedule a prior hearing date, the appellant was sent notice of her current hearing on October 4, 2023 (Exhibits 3 & 4).

Action Taken by MassHealth

MassHealth modified the appellant's prior authorization adjustment request for PCA services from 101.75 hours to 51.25 hours per week for the period September 14, 2023-September 13, 2024.

Issue

Was MassHealth correct, pursuant to 130 CMR 450.204, in determining that the appellant's request was not medically necessary in the areas that her PCA time had been reduced?

Summary of Evidence

The MassHealth representative testified that the appellant, an adult female diagnosed with spastic quadriplegia, requested 101.75 hours of PCA services. MassHealth modified the request to 51.25 hours. The period in question covers September 14, 2023-September 13, 2024 (Exhibit 1).

The MassHealth representative submitted into evidence the packet consisting primarily of the PCA evaluation results and testified that the modified PCA time included requested weekly minutes for passive range of motion for both upper and lower extremities, jacuzzi tub, lotion grooming, dressing/undressing, eating, bladder care, medication assistance, bag breathing, meal preparation, hot and cold sleeves, and transportation to medical appointments (Exhibit 5).

At the hearing, following testimony from the appellant, the MassHealth representative approved the full weekly minutes requested for the following PCA tasks: passive range of motion for both upper and lower extremities, dressing/undressing, medication assistance, bag breathing, hot and cold sleeves, and transportation to medical appointments. Also by agreement: bladder care, originally requested at 15 minutes per episode, and approved for 5 minutes, was modified up to 10 minutes per episode. 100 minutes was requested for meal preparation, 75 minutes was originally approved, and this was modified up to 90 minutes. The parties agreed to leave lotion grooming unchanged at 5 minutes daily, which was down from the 10 minutes that the provider had requested (Exhibit 5).

The only issues that remained were the requested PCA times for eating, nighttime attendant related to eating, and weekly time for assistance with the jacuzzi tub. 700 weekly PCA minutes were requested for eating along with 840 minutes for nighttime attendant related to eating, and 60 minutes were requested for the jacuzzi tub. These requested times were denied in full and remained denied at the hearing (Exhibit 5).

The MassHealth representative indicated at the hearing that time for eating and nighttime attendant related to eating was approved in the prior year's assessment but was denied this time due to safety concerns over possible aspirations. She explained that the evaluator observed the appellant choking when eating a brownie and reported that the appellant has frequent choking and coughing episodes when eating her meals. The time for jacuzzi tub was denied because the time requested for bathing was approved in full. The MassHealth representative noted, however, that MassHealth decided to nonetheless approve the time requested for transfers to the jacuzzi tub (Exhibit 5).

The appellant submitted into evidence a packet consisting of a personal letter, a prior Board of Hearings decision that approved her PCA appeal involving a dispute over dressing/and undressing and a copy of her PCA evaluation marked with her personal notations (Exhibit 6).

Regarding the PCA time requested for eating and nighttime attendant related to eating, the appellant testified that this has always been approved in the past and that nothing has changed in her condition that makes her unable to now eat her meals. Both she and her PCA testified that she is able to eat and has never had any serious choking episodes. They both denied that the appellant has ever been hospitalized for a choking episode related to eating. The appellant added further that she takes multiple pills daily by mouth which would not be possible if she had difficulty swallowing.

Regarding the PCA time requested for jacuzzi tub, the appellant testified that this is medically necessary to relieve per pain due to spasticity. It also helps her relax which makes her less dependent on anti-anxiety medications. Her PCA testified that the jacuzzi tub does not involve bathing, but relaxation and muscle relaxing. He stated that this is hands-on care because the appellant needs to be held during the entire time that she uses the jacuzzi tub.

Findings of Fact

Based on a preponderance of the evidence, I find:

1. The appellant, an adult female diagnosed with spastic quadriplegia, requested 101.75 hours of PCA services (Exhibits 1 & 5).
2. MassHealth modified the request to 51.25 weekly PCA hours (Exhibits 1 & 5).
3. The period in question is September 14, 2023-September 13, 2024 (Exhibits 1 & 5).
4. Modified PCA time included requested weekly minutes for passive range of motion for both upper and lower extremities, jacuzzi tub, lotion grooming, dressing/undressing, eating, bladder care, medication assistance, bag breathing, meal preparation, hot and cold sleeves, and transportation to medical appointments (Exhibit 5).
5. At the hearing, the MassHealth representative approved the full weekly minutes requested for the following PCA tasks: passive range of motion for both upper and lower extremities, dressing/undressing, medication assistance, bag breathing, hot and cold sleeves, and transportation to medical appointments (testimony).
6. At the hearing, and also by agreement, bladder care, originally requested at 15 minutes per episode, and approved for 5 minutes, was modified up to 10 minutes per episode. 100 minutes was requested for meal preparation, 75 minutes was originally approved, and this was modified up to 90 minutes (testimony).
7. Lotion grooming remained unchanged by agreement at 5 minutes daily, which was down from the 10 minutes that the provider had requested (Exhibit 5).

8. 700 weekly PCA minutes were requested for eating along with 840 minutes for nighttime attendant related to eating, and 60 minutes were requested for the jacuzzi tub. These requested times were denied in full and remained denied at the hearing (Exhibit 5).
9. Regarding the PCA time requested for eating and nighttime attendant related to eating, both the appellant and her PCA testified that this has always been approved in the past and that nothing has changed in her condition that makes her unable to now eat her meals (testimony).
10. There is no documentation or report of the appellant ever being hospitalized for a choking episode related to eating (Exhibit 5 and testimony).
11. The jacuzzi tub relieves the appellant's physical pain and anxiety and is not related to bathing. The PCA time for this activity is hands-on care (testimony).

Analysis and Conclusions of Law

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 recipient 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 MassHealth (130 CMR 450.204(A)).

Pursuant to 130 CMR 450.204(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 available to MassHealth upon request.

In the instant case, the appellant, diagnosed with spastic quadriplegia, requested 101.75 hours of PCA services. MassHealth modified the request to 51.25 weekly PCA hours. The period in question is September 14, 2023-September 13, 2024.

Modified PCA time included requested weekly minutes for passive range of motion for both upper and lower extremities, jacuzzi tub, lotion grooming, dressing/undressing, eating, bladder care, medication assistance, bag breathing, meal preparation, hot and cold sleeves, and transportation to medical appointments.

At the hearing, the MassHealth representative approved the full weekly minutes requested for the following PCA tasks: passive range of motion for both upper and lower extremities, dressing/undressing, medication assistance, bag breathing, hot and cold sleeves, and transportation to medical appointments. At the hearing, and also by agreement, bladder care, originally requested at 15 minutes per episode, and approved for 5 minutes, was modified up to 10 minutes per episode. 100 minutes was requested for meal preparation, 75 minutes was originally approved, and this was modified up to 90 minutes. Lotion grooming remained unchanged by agreement at 5 minutes daily, which was down from the 10 minutes that the provider had requested.

The only disputes before me are the requested PCA times for eating, nighttime attendant related to eating, and weekly time for assistance with the jacuzzi tub which MassHealth denied in full. 700 weekly PCA minutes were requested for eating along with 840 minutes for nighttime attendant related to eating, and 60 minutes were requested for the jacuzzi tub. Eating was approved in the prior year's assessment but was denied this time due to safety concerns over possible aspirations. The time for jacuzzi tub was denied because the time requested for bathing was approved in full.

Based upon the evidence and testimony, I conclude that nothing has changed in her condition that makes the appellant unable to now eat her meals. The appellant has eaten by mouth for years and continues to do so on a daily basis without serious incident. There are no documented or reported episodes of the appellant ever being hospitalized for a choking episode or aspiration related to eating. It is therefore medically necessary that the appellant continue to receive her PCA, and nighttime hours related to eating in order for her to receive her nutrition. I further conclude that that, where the jacuzzi tub relieves the appellant's physical pain and anxiety and is not related to bathing, and where the PCA time for this activity is hands-on care, the PCA time for this task is also medically necessary.

The appeal is therefore approved.

Order for MassHealth

Approve appellant for PCA time weekly minutes for eating, nighttime attendant, and jacuzzi tub as requested. Approve appellant for requested weekly minutes for passive range of motion for both upper and lower extremities, dressing/undressing, medication assistance, bag breathing, hot and cold sleeves, and transportation to medical appointments. Approve bladder care at 10 minutes per episode. Approve meal preparation at 90 minutes daily. No change for time for lotion grooming.

Implementation of this Decision

If this decision is not implemented within 30 days after the date of this notice, you should contact your local office. If you experience problems with the implementation of this decision, you should report this in writing to the Director of the Board of Hearings, MassHealth, at the address on the first page of this decision.

Stanley M. Kallianidis
Hearing Officer
Board of Hearings

cc:

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