

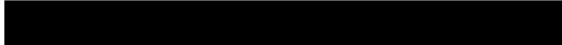
**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Approved in part; Dismissed in part	Appeal Number:	2308901
Decision Date:	12/21/2023	Hearing Date:	11/03/2023
Hearing Officer:	Scott Bernard		

Appearance for Appellant:



Appearance for MassHealth:

Donna Burns, RN *via* telephone



*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:	Approved in part; Dismissed in part	Issue:	Prior Authorization (PA) Request/Personal Care Attendant (PCA)
Decision Date:	12/21/2023	Hearing Date:	11/03/2023
MassHealth's Rep.:	Donna Burns, RN	Appellant's Rep.:	
Hearing Location:	Quincy Harbor South		

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 September 12, 2023, MassHealth approved the appellant's PA request for PCA services with modifications to the time requested for four activities of daily living (ADLs) and one instrumental activity of daily living (IADL). (See 130 CMR 130 CMR 422.410(A)(3),(7);(C)(1); 450.204(A)(1); Exhibit (Ex.) 1; Ex. 7, pp. 4-6). The appellant filed this appeal in a timely manner on September 26, 2023. (See 130 CMR 610.015(B); Ex. 2; Ex. 6). Modification of a PA request is valid grounds for appeal. (See 130 CMR 610.032).

Action Taken by MassHealth

MassHealth approved the appellant's PA request for PCA services with modifications to the time requested for four ADLs and one IADL.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 130 CMR 422.410(A)(3),(7);(C)(1); 450.204(A)(1) , in determining that the appellant's PCA request should be modified.

Summary of Evidence

The appellant is an individual over the age of 18, with a diagnosis of autism spectrum disorder. (Ex. 7, p. 8). The appellant's diagnoses also include cognitive deficit, developmental delay, and inhibited ability to initiate or complete tasks. (Ex. 7, p. 8). The PCM agency submitted a PA reevaluation for PCA services on August 28, 2023. (Ex. 7, p. 7). The PCM agency requested 40 hours of PCA services per week for one year. (Ex. 1; Ex. 7, pp. 4-6). In a notice dated September 12, 2023, MassHealth modified the times requested for four ADLs and one IADL, and approved 35 hours of PCA services per week. (Ex. 1; Ex. 7, pp. 4-6). The dates of service were from October 27, 2023 through October 26, 2024. (Ex. 1; Ex. 7, pp. 4-6). At the hearing, after considering the appellant's representative's testimony concerning bladder care, bowel care, and laundry, the MassHealth representative overturned the modifications to the requested times for these activities and approved the times as requested.

Bathing

The PCM agency requested 25 minutes, two times per day for bathing. (Ex. 7, p. 14). The PCM agency stated that the appellant requires two showers per day to prevent body odor. (Ex. 7, p. 15). MassHealth modified the time requested to 25 minutes, one time per day, and 10 minutes, one time per day. (Ex. 1; Ex. 7, pp. 4-6). MassHealth stated that it "MODIFIED YOUR REQUEST FOR PRIOR AUTHORIZATION FOR PERSONAL CARE ATTENDANT SERVICES BECAUSE THE TIME YOU REQUESTED FOR ASSISTANCE WITH BATHING OR GROOMING IS LONGER THAN ORDINARILY REQUIRED FOR SOMEONE WITH YOUR PHYSICAL NEEDS." (Ex. 1; Ex. 7, pp. 4-6). MassHealth cited 130 CMR 422.410(A)(3) and 130 CMR 450.204(A)(1).

The MassHealth representative stated that it was unusual for there to be a request for two full baths/showers of the same length every day. The MassHealth representative stated that generally the secondary bath/shower will be for a shorter length of time. The appellant's representative stated that the older he got the more difficult it was to bathe the appellant. Additionally, the appellant has issues with body odor and sometimes comes home from school dirty because he is incontinent. (See Ex. 7, pp. 22-24). The appellant's representative stated that it takes a lot of time to wash the appellant, and sometimes he requires four showers per day. When asked how much time to shower the appellant, the appellant's representative stated that it generally took about 15 minutes. The MassHealth representative stated that MassHealth did approve 35 minutes per day total for this activity.

Grooming (Shaving)

The PCM agency requested 10 minutes per day, seven days per week for shaving. (Ex. 7, p. 16). MassHealth modified this to 10 minutes, four days per week, explaining that "THE TIME YOU REQUESTED FOR ASSISTANCE WITH BATHING OR GROOMING IS LONGER THAN ORDINARILY REQUIRED FOR SOMEONE WITH YOUR PHYSICAL NEEDS." (Ex. 1; Ex. 7, pp. 4-6). MassHealth cited 130 CMR 422.410(A)(3) and 130 CMR 450.204(A)(1). The appellant's representative stated that the

appellant does need to shave every day but then amended this to say that he does not shave on Sundays. The MassHealth representative offered to increase the frequency of this to six times per week.

Findings of Fact

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

1. The appellant is an individual over the age of 18, with a diagnosis of autism spectrum disorder. (Ex. 7, p. 8).
2. The appellant's diagnoses also include cognitive deficit, developmental delay, and inhibited ability to initiate or complete tasks. (Ex. 7, p. 8).
3. The PCM agency submitted a PA reevaluation for PCA services on August 28, 2023. (Ex. 7, p. 7).
4. The PCM agency requested 40 hours of PCA services per week for one year. (Ex. 1; Ex. 7, pp. 4-6).
5. In a notice dated September 12, 2023, MassHealth modified the times requested for four ADLs and one IADL, and approved 35 hours of PCA services per week. (Ex. 1; Ex. 7, pp. 4-6).
6. The dates of service were from October 27, 2023 through October 26, 2024. (Ex. 1; Ex. 7, pp. 4-6).
7. After considering the appellant's representative's testimony concerning bladder care, bowel care, and laundry, the MassHealth representative overturned the modifications to the requested times for these activities and approved the times as requested. (Testimony of the MassHealth representative).
8. The PCM agency requested 25 minutes, two times per day for bathing. (Ex. 7, p. 14).
9. MassHealth modified the time requested to 25 minutes, one time per day, and 10 minutes, one time per day because it was longer than ordinarily required for someone of the appellant's physical needs. (Ex. 1; Ex. 7, pp. 4-6).
10. The appellant is incontinent. (Testimony of the appellant's representative; Ex. 7, pp. 20, 22).
11. The appellant requires 15 minutes per shower but may require up to 4 showers per day because of his incontinence. (Testimony of the appellant's representative).
12. The PCM agency requested 10 minutes per day, seven days per week for shaving. (Ex. 7, p.

16).

13. MassHealth modified this to 10 minutes, four days per week because it was longer than ordinarily required for someone with the appellant's physical condition. (Ex. 1; Ex. 7, pp. 4-6).

14. The appellant shaves every day except for Sunday. (Testimony of the appellant's representative).

15. The MassHealth representative offered to increase the frequency to six times per week. (Testimony of the MassHealth representative).

Analysis and Conclusions of Law

MassHealth may make an adjustment in the matters at issue before or during an appeal period. (130 CMR 610.051(B)). If the parties' adjustment resolves one or more of the issues in dispute in favor of the appellant, the hearing officer, by written order, may dismiss the appeal noting as the reason for such dismissal that the parties have reached agreement in favor of the appellant. (Id.). After considering the appellant's representative's testimony, the MassHealth representative decided to overturn the modifications to bladder care, bowel care, and laundry, and approve the times for these activities in full. Because these adjustments resolve the appeal with regard to these three activities, the appeal is DISMISSED IN PART.

The PCM agency must request prior authorization from the MassHealth agency as a prerequisite to payment for PCA services. (130 CMR 422.416(A)). Prior authorization determines only the medical necessity of the authorized service. (Id.). MassHealth covers activity time performed by a PCA in aiding with ADLs and IADLs. (130 CMR 422.411(A)). ADLs include certain specified activities that are fundamental to an individual's self-care and include physically assisting a member with bathing, personal hygiene, or grooming. (130 CMR 422.402; 422.410(A)(3)).

A preponderance of the evidence demonstrates that the appellant requires more time for bathing and grooming than that MassHealth approved. This is a point that MassHealth conceded concerning shaving after the appellant's representative stated that the appellant shaves every day except Sunday. MassHealth offered to adjust the frequency for shaving to six times per week to reflect this. Making this adjustment is logical.

The record also supports an increase to the time for bathing, though this is more difficult to parse from the appellant's representative's testimony and the PCM agency's PA request. The PCM agency request 25 minutes, twice per day. MassHealth modified this to 25 minutes one time per day, and 10 minutes one time per day. The MassHealth representative stated that it was unusual for the secondary bath/shower of the day to take an equal amount of time to the primary bath/shower. The appellant's representative did testify that the appellant only required 15

minutes per bath/shower. Though this would mean that the appellant seemed to only require 30 minutes per day total to bathe, which was below the modification of 35 minutes, the appellant also indicated that the appellant sometimes requires a greater frequency of bathing because he is incontinent. A total of 50 minutes per day of bathing total, although perhaps divided differently than the two times requested, seems closer to the appellant's needs at this time.

For the above stated reasons, regarding bathing and grooming, the appeal is APPROVED IN PART.

Order for MassHealth

The time and frequency for bathing, bladder care, bowel care, and laundry are approved as the PCM agency requested. The time for shaving is adjusted to a frequency of six times per week. The changes are effective from the beginning of the PA period.

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.

Implementation of this Decision

If this decision is not implemented within 30 days after the date of this decision, you should report this in writing to the Director of the Board of Hearings, at the address on the first page of this decision.

Scott Bernard
Hearing Officer
Board of Hearings

cc:

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