

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2309286
Decision Date:	12/28/2023	Hearing Date:	10/30/2023
Hearing Officer:	Kimberly Scanlon		

Appearance for Appellant:



Appearance for MassHealth:

Via telephone
Donna Burns, R.N.

Interpreter:



*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 Services
Decision Date:	12/28/2023	Hearing Date:	10/30/2023
MassHealth's Rep.:	Donna Burns	Appellant's Rep.:	<i>Pro se</i> , Guardian
Hearing Location:	Quincy Harbor South 4 (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 September 25, 2023 MassHealth denied the Appellant's prior authorization request for personal care attendant (PCA) services because clinical documentation submitted did not indicate that the Appellant requires physical assistance with two or more activities of daily living. (Exhibit 1). The Appellant filed this appeal in a timely manner on October 4, 2023. (130 CMR 610.015(B); Exhibit 2). Denial of assistance is valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied the Appellant's prior authorization request for PCA services.

Issue

The appeal issue is whether MassHealth was correct in denying the Appellant's prior authorization request for PCA services.

Summary of Evidence

The Appellant and his guardian appeared at the hearing telephonically and testified through an interpreter. MassHealth was represented by a Registered Nurse who appeared at the hearing telephonically and testified as follows: The Appellant is over the age of 18 with a primary diagnosis of Autism. A prior authorization (PA) request for an initial evaluation of Personal Care Attendant (PCA) services was submitted to MassHealth on September 8, 2023 by the Arc of the South Shore, for 7 hours and 45 minutes per week. On September 25, 2023, MassHealth denied the request because the documentation submitted does not indicate that the Appellant requires the physical assistance of 2 or more Activities of Daily Living (ADLs).

The Appellant's guardian testified that the reason for the request of PCA services was because she and her spouse need additional assistance to care for their son.

The MassHealth representative testified that the Appellant's PCM agency requested only 2 tasks: assistance with Cutting Nails and Dressing. She explained that the PCA program entails hands-on assistance with personal care. With respect to the requested tasks, the MassHealth representative explained that the request to cut Nails was requested weekly and therefore is not considered to be an Activity of Daily Living. As to Dressing, the MassHealth representative testified that the request did not indicate that assistance is needed to dress the Appellant, rather the request was made to "cue". She explained that cuing is otherwise known as helping the Appellant pick out clothes. Because these were the only 2 tasks requested, the Appellant's request was denied because it did not indicate that the Appellant requires hands-on assistance with 2 or more Activities of Daily Living.

The Appellant's guardian explained that while she understands that the prior authorization request was denied, she and her husband have tried their best to care for their son. She further explained that she and her husband are getting older though. The MassHealth representative explained that the Personal Care program strictly relates to personal care, such as bathing and dressing for example. She made inquiry as to whether the Appellant requires assistance with bathing or dressing. In response, the Appellant's guardian explained that she has to remind the Appellant to flush the toilet and notify him of time constraints when he showers. She explained that the Appellant loses track of time otherwise. The MassHealth representative explained that is considered supervision which is not part of the PCA program. The Appellant's guardian testified that she had no further questions.

Findings of Fact

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

1. The Appellant is between the ages of 18 and 65 with a primary diagnosis of Autism. (Testimony).

2. On September 8, 2023, the Arc of the South Shore submitted a request for Personal Care services in the amount of 7 hours and 45 minutes per week. (Testimony).
3. On September 25, 2023, MassHealth denied the Appellant's request. (Exhibit 1).
4. The Appellant timely appealed on October 4, 2023. (Exhibit 2).
5. MassHealth denied the Appellant's request for PCA services because the documentation submitted does not indicate that the Appellant requires 2 or more Activities of Daily Living. (Exhibit 1).
6. The Appellant requires reminders with respect to bathing and toileting. (Testimony).
7. Reminders are considered to be supervision and not hands-on assistance as required by the Personal Care Management program. (Testimony).

Analysis and Conclusions of Law

MassHealth covers PCA services provided to eligible MassHealth members who can be appropriately cared for in the home when all of the following conditions are met:

- (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 ADLs and IADLs without physical assistance.
- (3) The member, as defined 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 PCA services are medically necessary.

(130 CMR 422.403(C)).

The requested services must also be medically necessary for prior authorization to be approved. 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.

(A) A service is "medically necessary" if:

- 1). it is reasonably calculated to diagnose, prevent 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 MassHealth. Services that are less costly to MassHealth include, but are not limited to, health care reasonably known by the provider or identified by MassHealth 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.

(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, including medical records, available to MassHealth upon request. (See, 42 U.S.C. 1396(a)(30) and 42 CFR 440.230 and 440.260).

(C) A provider's opinion or clinical determination that a service is not medically necessary does not constitute an action by the MassHealth agency.

(130 CMR 450.204(A)-(C)).

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) 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 would otherwise 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;
- (7) toileting: physically assisting a member with bowel or bladder needs.

(130 CMR 422.410(A)).

Noncovered Services: MassHealth does not cover any of the following as part of the PCA program

or the transitional living program:

- (A) social services, including, but not limited to, babysitting, respite care, vocational rehabilitation, sheltered workshop, educational services, recreational services, advocacy, and liaison services with other agencies;
- (B) medical services available from other MassHealth providers, such as physician, pharmacy, or community health center services;
- (C) assistance provided in the form of cueing, prompting, supervision, guiding, or coaching;
- (D) PCA services provided to a member while the member is a resident of a nursing facility or other inpatient facility;
- (E) PCA services provided to a member during the time a member is participating in a community program funded by MassHealth including, but not limited to, day habilitation, adult day health, adult foster care, or group adult foster care;
- (F) Services provided by family members, as defined in 130 CMR 422.402; or
- (G) Surrogates, as defined in 130 CMR 422.402.

(130 CMR 422.412).

In the present case, MassHealth denied the Appellant's prior authorization request for personal care services. At the hearing, the Appellant's guardian testified that the Appellant frequently requires reminders surrounding toileting and bathing. The MassHealth representative explained that reminders are considered to be supervision and not hands-on assistance with personal care of the Appellant.

The MassHealth representative's testimony is persuasive and supported by documentary evidence. MassHealth's denial is justified and the Appellant, who has the burden, did not provide convincing evidence to support that the Appellant's request is medically necessary, in accordance with the regulations stated above. 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.

Kimberly Scanlon
Hearing Officer
Board of Hearings

cc:

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