

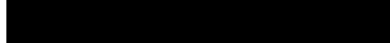
Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2311448
Decision Date:	12/26/2023	Hearing Date:	12/13/2023
Hearing Officer:	Sara E. McGrath		

Appearances for Appellant:



Appearances for MassHealth:

Donna Burns, RN



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

APPEAL DECISION

Appeal Decision:	Denied	Issue:	Prior Authorization for PCA Services
Decision Date:	12/26/2023	Hearing Date:	12/13/2023
MassHealth's Rep.:	Donna Burns, RN	Appellant's Rep.:	
Hearing Location:	Board of Hearings (Telephonic)		

Authority

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

Jurisdiction

Through a notice dated November 7, 2023, MassHealth modified the appellant's prior authorization request for personal care attendant (PCA) services (Exhibit 1). The appellant filed this appeal in a timely manner on November 14, 2023 (130 CMR 610.015(B); Exhibit 2). The modification of a request for PCA services is a valid basis for appeal (130 CMR 610.032, 422.417(B)(2)).

Action Taken by MassHealth

MassHealth modified the appellant's request for PCA services.

Issue

Was MassHealth correct in modifying the appellant's prior authorization request for PCA services?

Summary of Evidence

The MassHealth representative, who is a registered nurse, appeared at the hearing by phone and testified to the following factual background: The appellant is a male in his [REDACTED] with diagnoses that include, among others, chronic pain, diabetes, asthma, and depression (Exhibit 3, p. 8). The appellant lives at home with his family; the spouse also receives PCA services. On October 16, 2023, MassHealth received a re-evaluation prior authorization (PA) request for PCA services for the appellant in the amount of 28 hours per week. On November 7, 2023, MassHealth reviewed the request and modified it to 13.75 hours per week. MassHealth modified time in three categories, two related to night hours (transfers and toileting), and one related to day hours (laundry).

The MassHealth representative testified that MassHealth denied the appellant's request for PCA assistance with transfers (2 minutes, 2 times per night, daily) and toileting (5 minutes, once per night, daily) at night (Exhibit 3, pp. 12 and 21). The nurse evaluator writes that the appellant requires minimal assistance with transfers in and out of bed due to pain and for toileting, requires physical assistance with clothing management. The MassHealth representative explained that these related requests were denied for two reasons. First, the PCA evaluation indicates that the appellant is independent with toileting during the day. This would suggest that the appellant is independent with all toileting activities at night as well. Regarding the appellant's need for transfer assistance, the MassHealth representative explained that because MassHealth pays for the least costly appropriate option, the appellant should try using a urinal in bed during the night. Urinal use would eliminate the need for transfers in and out of bed.

The appellant's spouse appeared at the hearing by phone and stated that the appellant has received PCA assistance at night in the past. She referenced a letter from the appellant's physician that states the following: "This letter is to request that [the appellant's] night time PCA hours are continued due to medical conditions and help needed" (Exhibit 1). She stated that the physician knows what the appellant needs, and MassHealth should follow his recommendation. She stated that she has her own medical conditions, and she cannot help the appellant at night. Specifically, she cannot help the appellant to and from the bathroom, and she cannot dump out the urinal. The appellant takes medication that makes him dizzy, and thus he always needs help getting to the bathroom.

The MassHealth representative testified that the appellant requested 45 minutes per week for PCA assistance with laundry. MassHealth modified this request to 30 minutes per week, noting that because the appellant's spouse receives PCA services as well, the regulations require that PCA time for these tasks be shared. She also noted that there is nothing in the record to suggest that the appellant has any extraordinary laundry needs.

The appellant's spouse clarified that three family members receive MassHealth PCA services (the appellant, his spouse, and his daughter), and both she and her daughter are each authorized for 30 minutes per week for help with laundry. She also noted that there are no laundry facilities in the home; the laundry must be taken to the laundromat. The MassHealth representative responded

and stated that the family is receiving the maximum amount of time for PCA assistance with laundry (90 minutes per week), and that no additional time can be authorized.

Findings of Fact

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

1. The appellant is a male in his [REDACTED] with diagnoses that include, among others, chronic pain, diabetes, asthma, and depression.
2. The appellant lives with family; two other family members receive PCA services.
3. On October 16, 2023, MassHealth received a re-evaluation PA request for PCA services for the appellant in the amount of 28 hours per week.
4. On November 7, 2023, MassHealth reviewed the request and modified it to 13.75 hours per week.
5. MassHealth modified time in three categories, two related to night hours (transfers and toileting), and one related to day hours (laundry).
6. MassHealth denied the appellant's request for PCA assistance with transfers (2 minutes, 2 times per night, daily) and toileting (5 minutes, once per night, daily) at night.
7. For toileting at night, the appellant alleges that he requires minimal assistance with transfers in and out of bed due to pain and requires physical assistance with clothing management.
8. The PCA evaluation indicates that the appellant is independent with toileting during the day.
9. The appellant requested 45 minutes per week for PCA assistance with laundry; MassHealth modified the request to 30 minutes per week on the basis that the appellant lives with two family members who are authorized to receive MassHealth PCA assistance as well.
10. On November 14, 2023, the appellant filed a timely appeal of the PCA modification notice.

Analysis and Conclusions of Law

MassHealth regulations concerning Personal Care Attendant (PCA) Services are found at 130 CMR 422.000, *et seq.* PCAs physically assist members with ADLs and IADLs in accordance with the member's authorized evaluation or reevaluation, service agreement, and 130 CMR 422.410 (130 CMR 422.402). Per 130 CMR 422.403(C), MassHealth pays for PCA services 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 determined by the PCM agency, requires physical assistance with two or more of the ADLs as defined in 130 CMR 422.410(A); and (4) the MassHealth agency has determined that the PCA services are medically necessary. ADLs and IADLs are addressed in 130 CMR 422.410, which provides as follows:

(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 otherwise would be self-administered;
- (3) bathing or grooming: physically assisting a member with basic care such as bathing, personal hygiene, or grooming;
- (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 or bladder needs.

(B) Instrumental Activities of Daily Living (IADLs). Instrumental activities of daily living include the following:

- (1) household services: physically assisting with household management tasks that are incidental to the care of the member, including laundry, shopping, and housekeeping;
- (2) meal preparation and clean-up: physically assisting a member to prepare meals;
- (3) transportation: accompanying the member to medical providers; and
- (4) special needs: assisting the member with:
 - (a) the care and maintenance of wheelchairs and adaptive devices;
 - (b) completing the paperwork required for receiving personal care services; and

(c) other special needs approved by MassHealth as being instrumental to the health care of the member.

(C) Determining the Number of Hours of Physical Assistance. In determining the number of hours of physical assistance that a member requires under 130 CMR 422.410(B) for IADLs, the PCM agency must assume the following:

- (1) When a member is living with family members, the family members will provide assistance with most IADLs. For example, routine laundry, housekeeping, shopping, and meal preparation and clean-up should include those needs of the member.
- (2) When a member is living with one or more other members who are authorized for MassHealth personal care services, PCA time for homemaking tasks (such as shopping, housekeeping, laundry, and meal preparation and clean-up) must be calculated on a shared basis.
- (3) MassHealth will consider individual circumstances when determining the number of hours of physical assistance that a member requires for IADLs.

MassHealth also limits coverage to those services that have been determined to be medically necessary. Per 130 CMR 450.204(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: *Potential Sources of Health Care*, or 517.007: *Utilization of Potential Benefits*.

MassHealth denied the appellant's request for PCA assistance with transfers and toileting at night. The record supports this determination. The appellant's spouse maintains that the appellant needs help with transfers (in and out of bed and to and from the bathroom) due to chronic pain as well as a side effect of his medication (dizziness). Per regulation, MassHealth must cover only those medically necessary services that are the least costly option for the agency. Here, MassHealth has persuasively argued that the appellant can use a urinal at night. Use of a urinal would eliminate the

need for all transfers at night, thus also eliminating the need for PCA assistance at night.¹

MassHealth modified the appellant's request for PCA assistance with laundry from 45 to 30 minutes per week. The record supports this determination as well. Per 130 CMR 422.410(C)(2), when a member is living with one or more other members who are authorized for MassHealth personal care services, PCA time for homemaking tasks (such as shopping, housekeeping, laundry, and meal preparation and clean-up) must be calculated on a shared basis. Here, the appellant lives with his wife and daughter, both of whom are authorized to for MassHealth PCA services. Therefore, PCA time for homemaking tasks such as laundry must be calculated on a shared basis. According to the appellant's spouse, the spouse and daughter are each authorized to receive 30 minutes per week for assistance with laundry. Because there is no evidence that the appellant has any extraordinary laundry needs, MassHealth's modification here was proper.

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.

Sara E. McGrath
Hearing Officer
Board of Hearings

cc: Optum

¹ The MassHealth representative noted at hearing that the appellant should at least attempt a trial with the urinal at night. If the trial fails, the appellant is free to request an adjustment of the current authorization, including further documentation to support the need for PCA assistance at night.