

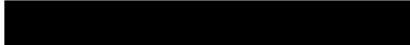
**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Dismissed in part; Denied in part	<b>Appeal Number:</b>	2312184
<b>Decision Date:</b>	2/27/2024	<b>Hearing Date:</b>	12/27/2023
<b>Hearing Officer:</b>	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

<b>Appeal Decision:</b>	Dismissed in part; Denied in part	<b>Issue:</b>	Prior Authorization (PA) Personal Care Attendant (PCA)
<b>Decision Date:</b>	2/27/2024	<b>Hearing Date:</b>	12/27/2023
<b>MassHealth's Rep.:</b>	Donna Burns, RN	<b>Appellant's Rep.:</b>	
<b>Hearing Location:</b>	Quincy Harbor South	<b>Aid Pending:</b>	Yes

### 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 November 21, 2023, MassHealth approved the appellant's PA request for PCA services with modifications. (See 130 CMR 422.410(A)(1),(7); 422.412(F); 450.204(A)(1); and Exhibit (Ex.) 1, pp. 2-4; Ex. 5, pp. 4-6). The appellant filed this appeal in a timely manner on November 28, 2023. (See 130 CMR 610.015(B) and Ex. 1, p. 1). Modification of a PA request for PCA services is valid grounds for appeal. (See 130 CMR 610.032).

### Action Taken by MassHealth

MassHealth approved the appellant's request for PCA services with modifications.

### Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 422.410(A)(1),(7); 422.412(F); and 450.204(A)(1), in modifying the request for PCA services.

### Summary of Evidence

The MassHealth representative stated that she is a registered nurse and clinical appeals reviewer

with MassHealth's agent, Optum. The MassHealth representative stated that according to documentation, the appellant is under the age of 18 years old and has diagnoses of cerebral palsy, epilepsy, global developmental delay, TBCK ID syndrome, which is an intellectual disability, and autism. (Ex. 5, p. 8).

Tri Valley, Inc., the Personal Care Management (PCM) agency, submitted a re-evaluation prior authorization request for a personal care attendant (PCA) services to MassHealth on November 10, 2023 for 60 hours and 30 minutes per week for 36 school weeks and 76 hours and 45 minutes for 16.28 vacation weeks. (Testimony of the MassHealth representative; Ex. 1, pp. 2-4; Ex. 5, pp. 4-6). By notice dated November 21, 2023, MassHealth modified the request and approved 53 hours and 15 minutes per week for 36.28 school weeks and 63 hours and 30 minutes per week for 16 vacation weeks, the dates of service from December 8, 2023 to December 7, 2024. (Id.). The MassHealth representative stated MassHealth made four modifications, to transfers, G-tube water bolus, bladder care, and special transfers for bladder care, and corrected one error based on its regulations. (Id.).

The MassHealth representative pointed out that the PCM agency's request was for 36 school weeks and 16.28 vacation weeks. MassHealth stated that the PCM agency put the .28 in the wrong place and MassHealth corrected this to 36.28 school weeks and 16 vacations weeks. The appellant's mother did not contest the correction MassHealth made to the error that the PCM agency made in submitting the PA request.

After considering the appellant's mother's testimony, the MassHealth representative overturned the modification to transfers<sup>1</sup>, and approved the requested 10 minutes, 10 times per day, two days a week and 10 minutes, five times per day, five days a week during school weeks; and 10 minutes, 10 times per day, seven days a week during vacation weeks. (Ex. 5, pp. 12-13, 40-41).

The following modifications remain in dispute:

1. Eating/Administration of Water Boluses *via* G-Tube

The MassHealth representative stated that MassHealth approved most of the time requested for eating. The only thing MassHealth modified was the time requested for water boluses administered by G-Tube. (See Ex. 1; Ex. 5, pp. 4-6). The MassHealth representative stated that the PCM agency requested 6 minutes, two times per day, seven days a week during both school and vacation weeks for the water boluses. (Ex. 5, pp. 20, 48). The PCM agency wrote "[t]he G-tube bolus takes about 6 minutes for prep, setting up the machine, filling the bolus and running the bolus and cleaning G-tube." (Id.).

The MassHealth representative stated that MassHealth denied this time according to its Pediatric G-Tube Feeding Guidelines. The MassHealth representative stated that according to these

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<sup>1</sup> This is for transfers under mobility, as opposed to the special transfer for toileting detailed below.

guidelines, time can be granted for G-Tube feeding when that is the main means of receiving nutrition. The MassHealth representative stated that the appellant is fed solid food, and MassHealth approved the time requested for PCA assistance with eating. The MassHealth representative stated that the care and cleaning of the G-tube is an instrumental activity of daily living (IADL), which is a parental responsibility, and is therefore not covered under the PCA program. The MassHealth representative stated that this reduced the total time for eating by 84 minutes per week; 390 minutes were approved for PCA assistance with eating.

The appellant's mother stated that the appellant receives two water boluses per day when she is in school and three when she is not in school. The appellant's mother stated that the PCAs are all trained on given the boluses, even when she is not there to oversee this. The MassHealth representative stated that because the appellant is a minor, a parent needs to be present to oversee administration of the G-tube in any case. The MassHealth representative stated again that the main reason that the time was denied was because the appellant did not receive her main nutrition through the G-tube, and that the time requested for assisting with her main means of nutrition was approved. The appellant's mother stated that the appellant required the water boluses.

## 2. Bladder Care/Toileting Special Transfers

The appellant's PCM agency requested 10 minutes, 10 times a day, 2 days a week, and 10 minutes, 5 times a day, 5 days a week during the school weeks for PCA assistance with bladder care; the PCM agency requested 10 minutes, 10 times a day, 7 days a week during vacation weeks for PCA assistance with bladder care. (Testimony). The PCM agency requested the exact same amount of time for PCA assistance with transfers for bladder care. (Testimony). MassHealth approved the requested 10 minutes, 5 times a day, 5 days a week for PCA assistance with bladder care and transfers during school weeks, and also approved in full the time requested for PCA assistance with bowel care. MassHealth modified the frequency of PCA assistance with bladder care and transfers from the requested 10 times a day to 8 times a day during weekends and vacation weeks. (Testimony).

The MassHealth representative stated that the PCM agency explained the request as follows:

[The appellant] is incontinent of bowel and bladder. She requires frequent diaper changes to prevent skin breakdown. She requires 10 diaper changes per day. This has increased since getting the G-tube and two water boluses per day. She is wetting herself more frequently. Needing more changes to prevent skin breakdown. She requires 2 person Hoyer transfer to a flat surface to change diapers. Task is difficult due to increased weight and she does not move her limbs on her own. She has episodes of loose stools requires increased care when these episodes occur. She requires 2 diaper changes during the night...(Ex. 5, pp. 21, 49).

The MassHealth representative stated that the only modifications MassHealth made concerned

the frequency of bladder care and transfers when the appellant is not in school, i.e. on weekends and during vacation weeks.

The appellant's mother stated that when the appellant is home on the weekends and during vacation weeks, the PCA changes her 12 times per day. The MassHealth representative told the appellant's mother that she could not approve more than the PCM agency requested but questioned the need for 10 episodes per day. The appellant's mother stated that the appellant is receiving increased water intake, and this has led to increased urgency and incontinence. The appellant's mother stated that they increased the appellant's water intake because she was frequently constipated. The appellant's mother said that constipation was still an issue but that the appellant's urinary incontinence had increased, and they are going through a lot of diapers. The MassHealth representative responded saying that the standard of care for bladder care is once every two hours.

## Findings of Fact

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

1. The appellant is under the age of 18 years old and has diagnoses of cerebral palsy, epilepsy, global developmental delay, TBCK ID syndrome, which is an intellectual disability, and autism. (Ex. 5, p. 8; Testimony of the MassHealth representative).
2. The PCM agency submitted a prior authorization re-evaluation request for personal care attendant services to MassHealth on November 10, 2023 for 60 hours and 30 minutes per week for 36 school weeks and 76 hours and 45 minutes for 16.28 vacation weeks. (Testimony of the MassHealth representative; Ex. 1, pp. 2-4; Ex. 5, pp. 4-6).
3. In a notice dated November 21, 2023, MassHealth modified the request and approved 53 hours and 15 minutes per week for 36.28 school weeks and 63 hours and 30 minutes per week for 16 vacation weeks for the dates of service from December 8, 2023 to December 7, 2024. (Testimony of the MassHealth representative; Ex. 1, pp. 2-4; Ex. 5, pp. 4-6).
4. MassHealth made four modifications and corrected one error based on its regulations. (Testimony of the MassHealth representative; Ex. 1, pp. 2-4; Ex. 5, pp. 4-6).
5. After considering the appellant's mother's testimony, the MassHealth representative overturned the modification to transfers, and approved the requested 10 minutes, 10 times per day, two days a week and 10 minutes, five times per day, five days a week during school weeks; and 10 minutes, 10 times per day, seven days a week during vacation weeks. (Ex. 5, pp. 12-13, 40-41);
6. The appellant's mother did not contest the correction MassHealth made to the error that the PCM agency made in submitting the PA request. (Testimony of the appellant's mother).

7. Eating/Administration of Water Boluses *via* G-Tube:

- a. The PCM agency requested 6 minutes, two times per day, seven days a week during both school and vacation weeks for the water boluses. (Testimony of the MassHealth representative; Ex. 5, pp. 20, 48).
- b. The PCM agency wrote “[t]he G-tube bolus takes about 6 minutes for prep, setting up the machine, filling the bolus and running the bolus and cleaning G-tube.” (Testimony of the MassHealth representative; Ex. 5, pp. 20, 48).
- c. MassHealth denied this time according to its Pediatric G-Tube Feeding Guidelines, which permit time for G-Tube feeding when that is the main means of receiving nutrition. (Testimony of the MassHealth representative).
- d. MassHealth approved time for PCA assistance with eating solid food, which is the appellant’s main means of receiving nutrition. (Testimony of the MassHealth representative).
- e. The care and cleaning of the G-tube is an IADL.

8. Bladder Care/Toileting Special Transfer:

- a. The PCM agency requested 10 minutes, 10 times per day, two days a week during school weeks and seven days a week during vacation weeks for both bladder care and toileting special transfer. (Testimony of the MassHealth representative; Ex. 5, pp. 21, 49).
- b. The appellant requires frequent diaper changes to prevent skin breakdown. (Testimony of the MassHealth representative; Ex. 5, pp. 21, 49).
- c. The appellant requires a two person Hoyer transfer to a flat surface to change diapers. (Testimony of the MassHealth representative; Ex. 5, pp. 21, 49).
- d. MassHealth modified the frequency to 8 times per day two days a week during school weeks and seven days a week during vacation weeks. (Testimony of the MassHealth representative; Ex. 5, pp. 21, 49).
- e. MassHealth approved the time for bowel care as requested, which would account for a further episode seven days a week for both school and vacation weeks. (Testimony of the MassHealth representative; Ex. 5, pp. 21, 49).
- f. Generally the standard of care for bladder care is once every two hours. (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 and 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 in accordance with 130 CMR 610.035 as to all resolved issues, noting as the reason for such dismissal that the parties have reached agreement in favor of the appellant. (130 CMR 610.051(B)). After considering the appellant's mother's testimony, the MassHealth representative overturned the modification to transfers and approved the time as requested. As this adjustment resolves the dispute in favor of the appellant with regard to this modification, the appeal is hereby DISMISSED as to that issue.

BOH will also dismiss a request for a hearing when the request is withdrawn by the appellant. (130 CMR 610.035(A)(2)). At the hearing, the appellant's mother stated that she did not dispute MassHealth's correction to 36.28 school weeks and 16 vacations weeks. With respect to the error correction, the request for the hearing is hereby DISMISSED as to that issue.

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 activities of daily living (ADLs) and Instrumental Activities of Daily Living (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 who has a mobility impairment that prevents unassisted transferring; physically assisting a member to eat, which can include assistance with tube feeding and special nutritional and dietary needs; and physically assisting a member with bowel or bladder needs. (130 CMR 422.410(A)(1),(6),(7)).

MassHealth does not pay a provider for services that are not medically necessary and may impose sanctions on a provider for prescribing a service where such service is not medically necessary. (130 CMR 450.204). A service is medically necessary if, amongst other things, 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. (130 CMR 450.204(A)(1)).

A preponderance of the evidence does not support the medical necessity of the time the PCM agency requested for administration of water boluses via G-tube, which also included the cleaning or maintenance of the G-tube following administration of the boluses. According to the MassHealth representative's testimony, MassHealth will not generally approve time for G-tube feeding unless it is the main means of providing nutrition. Here, the appellant is receiving her nutrition entirely by mouth and is only receiving water boluses through the G-tube. MassHealth will not approve PCA time for cleaning or maintaining the G-tube because it is an IADL. (*See* 130 CMR 422.410(B)(4)(a)). When a member is living with family members, the family members will

provide assistance with most IADLs and MassHealth does not cover services provided by family members. (See 130 CMR 422.410(C)(1); 422.412(F)).

A preponderance of the evidence also does not support the medical necessity of 10 episodes of bladder care/special toileting transfers the PCM agency requested for weekends during school weeks and seven days a week during vacation week. The MassHealth representative explained that these two activities, though requested separately, are performed together and were requested for the same time for task and frequency. The MassHealth representative stated that the standard of care for changing diapers is once every two hours. MassHealth approved PCA assistance with eight episodes of bladder care and one episode of bowel care every day. The appellant has PCA assistance with 9 episodes per day, or once every 2 hours in an 18 hour day, and this meets the standard of care.

For the above reasons, with regards to administration of water boluses and bladder care/special toileting transfers the appeal is DENIED.

## **Order for MassHealth**

Once aid pending is removed, move forward with all modifications with the exception of mobility transfers which, as agreed at the hearing, are approved as requested: 10 minutes, 10 times per day, two days a week and 10 minutes, five times per day, five days a week during school weeks; and 10 minutes, 10 times per day, seven days a week during vacation weeks.

## **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.

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Scott Bernard  
Hearing Officer  
Board of Hearings

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