

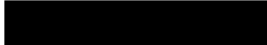
**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



|                         |                                     |                       |           |
|-------------------------|-------------------------------------|-----------------------|-----------|
| <b>Appeal Decision:</b> | Approved in part;<br>denied in part | <b>Appeal Number:</b> | 2313636   |
| <b>Decision Date:</b>   | 3/7/2024                            | <b>Hearing Date:</b>  | 1/24/2024 |
| <b>Hearing Officer:</b> | Cynthia Kopka                       |                       |           |

**Appearance for Appellant:**



**Appearance for MassHealth:**

Kelly Rayen, RN, Optum



*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>   | Approved in part;<br>denied in part | <b>Issue:</b>            | PCA services |
| <b>Decision Date:</b>     | 3/7/2024                            | <b>Hearing Date:</b>     | 1/24/2024    |
| <b>MassHealth's Rep.:</b> | Kelly Rayen, RN                     | <b>Appellant's Rep.:</b> | Parent       |
| <b>Hearing Location:</b>  | Quincy (remote)                     | <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

By notice dated December 11, 2023, MassHealth modified Appellant's request for prior authorization of personal care attendant (PCA) services. Exhibit 1. Appellant filed this timely appeal on December 26, 2023. Exhibit 2. 130 CMR 610.015(B). Denial or modification of prior authorization is a valid basis for appeal. 130 CMR 422.417(B) and 130 CMR 610.032. Appellant was entitled to retain the prior level of services pending the outcome of the hearing. 130 CMR 610.036.

### Action Taken by MassHealth

MassHealth modified Appellant's request for prior approval of PCA services.

### Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 422.410 and 450.204, in modifying Appellant's prior authorization request for PCA services.

### Summary of Evidence

A registered nurse and clinical appeals reviewer represented MassHealth by phone and testified as follows. Appellant is a [REDACTED] minor child whose medical history includes epilepsy with weekly seizures, cognitive delay, poor impulse control and resistive behaviors, incontinence, and G-tube site not in use. Exhibit 4 at 7. Appellant lives at home with siblings and parents. Appellant's mother is a part time student and Appellant's father works 6 days a week from 8:00 AM to midnight. *Id.* at 7-8. Appellant attends a short day of school 5 days per week.

On November 20, 2023, Northeast Arc, Appellant's Personal Care Management Agency (PCMA), submitted an re-evaluation for PCA services, requesting 25.5 PCA hours per school week and 29.25 PCA hours per vacation week. On December 11, 2023, MassHealth modified Appellant's request and approved 23.25 PCA hours per school week and 26.25 PCA hours per vacation week. The dates of service were from December 27, 2023 through December 26, 2024. Exhibit 1. Appellant was entitled to retain the prior level of services pending the outcome of the hearing, which was approximately 25 hours per week without a split school/vacation schedule.

MassHealth modified the requested PCA hours for two instrumental activities of daily living (IADLs): meal preparation and laundry. *Id.* For meal preparation, Appellant requested 20 minutes daily 5 days per week for lunch preparation. Exhibit 4 at 28. The notes provide that Appellant requires a special Halal diet and will not eat school lunch. The PCA would prepare and clean up lunch for Appellant to bring to school. MassHealth denied this request, citing 130 CMR 410(B) and (C), arguing that meal preparation for a minor child Appellant's age is a parental responsibility. Appellant did not receive meal preparation assistance in the previous prior authorization (PA) period.

Appellant's parent testified that the PCMA has submitted a request for an adjustment to better reflect Appellant's school situation. Appellant is frequently sick and misses school. She only attends a short school day due to her conditions. The request for an adjustment will address Appellant's additional needs for assistance with feeding and toileting in the home. Regarding meal preparation, Appellant does not eat breakfast or lunch at school, but requires a healthy snack at school. Appellant's parent has two other children and is often having to soothe Appellant and manage her behaviors. Therefore, Appellant's parent requires assistance making a snack for Appellant to bring to school. Appellant does not eat the food at school and needs a health Halal snack such as rice, salad, or fruit.

For assistance with laundry, Appellant requested 60 minutes per week. Exhibit 4 at 29. MassHealth modified the request to 30 minutes per week. Though this is a parental responsibility, MassHealth allowed time for laundry due to Appellant's incontinence. Laundry is located in Appellant's residence.

Appellant's parent testified that Appellant has daily accidents. Additionally, her G-tube site leaks daily. The G-tube was removed and the site has not closed, which requires dressing and care. As

such, Appellant requires changes of both her top and bottom clothes 2-3 times daily. Appellant also has a grand mal seizure at least once per week and often at night in bed. As a result, Appellant wets the bed which requires a full bedding change and laundry. Appellant's parent estimated that it takes an hour to address Appellant's additional laundry needs.

## Findings of Fact

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

1. On November 20, 2023, Appellant's PCMA submitted a re-evaluation for PCA services, requesting 25.5 PCA hours per school week and 29.25 PCA hours per vacation week on Appellant's behalf.
2. On December 11, 2023, MassHealth modified Appellant's request and approved 23.25 PCA hours per school week and 26.25 PCA hours per vacation week from December 27, 2023 to December 26, 2024. Exhibit 1.
3. Appellant filed a timely appeal on December 26, 2023 and was entitled to retain the prior level of services pending the outcome of the appeal (25 hours per week). Exhibit 2.
4. Appellant is a [REDACTED] minor child whose medical history includes epilepsy with weekly seizures, cognitive delay, poor impulse control and resistive behaviors, incontinence, and G-tube site not in use. Exhibit 4 at 7.
5. For assistance with meal preparation, Appellant requested 20 minutes, 1 time per day, 5 days per week for making lunch. *Id.* at 28.
6. MassHealth denied this request.
7. For assistance with laundry, Appellant requested 60 minutes per week. *Id.* at 29..
8. MassHealth approved 30 minutes per week. *Id.*
9. Appellant experiences incontinence during seizures and her G-tube site leaks daily.

## Analysis and Conclusions of Law

Pursuant to 130 CMR 422.403(C), MassHealth will pay for PCA services for members appropriately cared for at home when the following conditions are met:

- (1) The personal care services are prescribed by a physician or a nurse practitioner who is responsible for the oversight of the member's health care.
- (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 personal care agency, requires physical assistance with two or more of the following ADLs as defined in 130 CMR 422.410(A):
  - (a) mobility, including transfers;
  - (b) medications,
  - (c) bathing/grooming;
  - (d) dressing or undressing;
  - (e) range-of-motion exercises;
  - (f) eating; and
  - (g) toileting.
- (4) The MassHealth agency has determined that the PCA services are medically necessary and has granted a prior authorization for PCA services.

The requested services must also be medically necessary for prior authorization to be approved. Pursuant to 130 CMR 450.204(A), a service is medically necessary if it is:

- (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, or 517.007.

MassHealth covers assistance with the following tasks under the PCA program:

422.410: Activities of Daily Living and Instrumental Activities of Daily Living

(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, and grooming skills;
- (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 and 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 the MassHealth agency 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 personal care 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) The MassHealth agency will consider individual circumstances when determining the number of hours of physical assistance that a member requires for IADLs.

MassHealth does not cover PCA services for services provided by family members, defined by 130 CMR 422.402 as “the spouse of the member, the parent of a minor member, including an adoptive parent, or any legally responsible relative.” 130 CMR 422.412(F).

Here, it is undisputed that Appellant qualifies for PCA services. The only issues in dispute are MassHealth’s modifications of meal preparation and laundry.

With regard to meal preparation, this appeal is denied. Appellant’s family is expected to perform routine meal preparation for Appellant under 130 CMR 422.410(C)(1). The testimony provided did not demonstrate that Appellant’s lunch needs are out of the ordinary or excessive given her medical needs.

With regard to laundry, this appeal is approved. Appellant’s parent offered credible testimony that Appellant’s laundry needs are excessive given her medical conditions related to her seizures and G-tube site. This goes beyond the scope of routine laundry as contemplated by 130 CMR 422.410(C)(1).

## **Order for MassHealth**

Restore Appellant’s request for 60 minutes of PCA assistance with laundry per week.

## **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 contact your MassHealth Enrollment Center. If you experience problems with the implementation 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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Cynthia Kopka  
Hearing Officer  
Board of Hearings

cc:

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