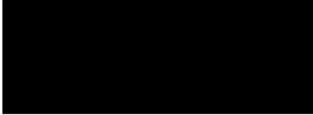


# Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



**Appeal Decision:** Denied in part;  
Dismissed in part

**Appeal Number:** 2401162

**Decision Date:** 02/16/2024

**Hearing Date:** 02/12/2024

**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

<b>Appeal Decision:</b>	Denied in part; Dismissed in part	<b>Issue:</b>	Prior Authorization (PCA Services)
<b>Decision Date:</b>	02/16/2024	<b>Hearing Date:</b>	02/12/2024
<b>MassHealth's Rep.:</b>	Donna Burns, RN	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Board of Hearings (Videoconference)	<b>Aid Pending:</b>	Yes

### 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 January 8, 2024, MassHealth modified the appellant's request for prior authorization for personal care attendant (PCA) services (Exhibit 1). The appellant filed this appeal in a timely manner on January 22, 2024, seeking approval of the denied time (130 CMR 610.015(B) and Exhibit 2). Modification of a request for PCA services is a valid basis for appeal (130 CMR 610.032). The appellant's benefits were continued during the appeal process.

### Action Taken by MassHealth

MassHealth modified the appellant's request for PCA services.

### Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 422.410, in modifying the appellant's request for PCA services.

## Summary of Evidence

The MassHealth representative, a registered nurse, appeared at the hearing telephonically. She testified that the appellant is a female in her [REDACTED] with multiple diagnoses including but not limited to tetraplegia, fibromyalgia, post-traumatic stress disorder, and orthostatic hypotension. On December 18, 2023, the appellant's provider submitted a prior authorization (PA) request and re-evaluation for PCA services. The provider requested PCA services in the amount of 99.25 hours per week for the prior authorization period of January 13, 2024, to January 12, 2025. MassHealth modified the request and approved 95.75 hours per week.

The MassHealth representative explained that MassHealth modified the appellant's request in three areas – dressing, undressing, and other health care needs (blood pressure checks). She testified that the appellant requested 40 minutes each day for dressing (getting dressed in the morning) and 30 minutes each day for undressing (getting undressed in the evening) (Exhibit 3, p. 18). MassHealth modified these requests to 30 minutes (dressing) and 20 minutes (undressing) because the time requested is longer than ordinarily required. The MassHealth representative testified that the PCA evaluation, which is part of MassHealth's hearing packet, reflects that the appellant is totally dependent for these two activities. She referenced MassHealth's time-for-tasks guidelines, which provide average times for tasks based on functional ability. She noted that for totally dependent individuals, the guidelines set forth an average time estimate of 30 minutes for each of these tasks.

The appellant appeared at the hearing via videoconference along with her mother. She expressed frustration with the evaluation process and explained that the nurse evaluator was a stranger who is unfamiliar with her needs. She did not observe the appellant completing tasks and did not ask her how long each task takes. She stated that she has other diagnoses not listed in the evaluation, including an MI in 2016, spasticity, nerve pain, and frequent UTIs. She testified that she does not understand why the PCM agency requested fewer hours this year; she is worse, not better. She has had 5 hospitalizations, and her weight has increased to the point of morbid obesity. She wants to stay out of a skilled nursing facility.

The appellant testified that dressing in the morning takes one hour, and she described the process as follows: She is lying in bed and is unable to move any body part. The PCA picks up her legs and inches a Pull Up upward toward her waist. The process is slowed due in part to the presence of her suprapubic catheter; the site needs to be assessed as part of this process. The PCA performs some skin care at this point and applies lotion as needed. The PCA then inches the appellant's slacks up and dons the appellant's compression socks. The PCA then uses a gait belt to assist the appellant into a sitting position and swivels her so that her legs hang over the side of the bed. The PCA then needs to check the appellant's blood pressure and determine whether she needs medication. The appellant is sometimes dizzy at this point. The PCA then puts on the appellant's leg braces, one of which extends up to her thigh, and fastens each of them. The PCA then puts on the appellant's sneakers. Lastly, the PCA changes the appellant's shirt. This process is lengthy, but each step is necessary to get the appellant ready for the day. The appellant also explained that undressing is a lengthy process as well.

The MassHealth representative responded to the appellant's testimony and explained that PCA time has been authorized for several of the tasks described – but in different categories. She clarified that time for lotion application was authorized under the category of grooming, and time for blood pressure checks, donning the braces, and donning the compression socks was authorized under the category of other healthcare needs. The time allotted for all these additional tasks totals over 20 minutes per day. With the additional 30 minutes authorized for dressing, the PCA is authorized to spend close to an hour completing the dressing process as described by the appellant. The MassHealth representative agreed to reinstate the 30 minutes per day requested for undressing.

In the category of other healthcare needs, the appellant requested 5 minutes, 4 times per day, 7 days per week, for blood pressure checks (Exhibit 3, p. 24). MassHealth modified the request to 5 minutes, 2 times per day, 7 times per week on the basis that blood pressure is typically checked no more than twice per day. The appellant clarified that her blood pressure is checked 3 times per day. She contends, however, that each check takes more than 5 minutes. The blood pressure cuff often needs to be adjusted and the monitor frequently displays an error message which necessitates repeating the task. Further, it takes time to record each reading. The MassHealth representative responded and stated that MassHealth typically authorizes 3 minutes for each blood pressure check. Considering the appellant's testimony as to the frequency of this task, however, she agreed to authorize 5 minutes, 3 times per day, 7 days per week.

## **Findings of Fact**

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

1. The appellant is a female in her [REDACTED] with multiple diagnoses including but not limited to tetraplegia, fibromyalgia, post-traumatic stress disorder, orthostatic hypotension, a prior MI, spasticity, nerve pain, and frequent UTIs.
2. On December 18, 2023, the appellant's provider submitted a PA request and re-evaluation for PCA services. The provider requested PCA services in the amount of 99.25 hours per week for the prior authorization period of January 13, 2024, to January 12, 2025.
3. On January 8, 2024, MassHealth modified the request and approved 95.75 hours per week.
4. The appellant requested 40 minutes per day (280 minutes per week) for PCA assistance with dressing; MassHealth modified the request and approved 30 minutes per day (210 minutes per week).
5. The appellant requested 30 minutes per day (210 minutes per week) for PCA assistance with undressing; MassHealth initially modified the request and approved 20 minutes per day but at hearing reinstated the approval to 30 minutes per day (210 minutes per week).
6. The appellant described a dressing process that takes an hour; the process involves

assisting with dressing, as well as lotion application, blood pressure checks, putting on braces and compression socks, and assessing her catheter site.

7. MassHealth has authorized over 20 minutes per day for lotion application, blood pressure checks, and putting on braces and compression socks.
8. The appellant requested 5 minutes, 4 times per day, 7 days per week, for blood pressure checks (140 minutes per week). MassHealth initially modified the request to 5 minutes, 2 times per day, 7 times per week, but at hearing agreed to increase the time to 5 minutes, 3 times per day, 7 days per week (105 minutes per week).
9. The PCA checks the appellant's blood pressure 3 times per day.

## **Analysis and Conclusions of Law**

Regulations concerning Personal Care Attendant (PCA) Services are found at 130 CMR 422.000, et seq. PCA services are physical assistance with activities of daily living (ADLs) and instrumental activities of daily living (IADLs), as described in 130 CMR 422.410. Pursuant to 130 CMR 422.403(C), MassHealth covers PCA services when (1) they 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 ADLs as defined in 130 CMR 422.410(A); and (4) MassHealth 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, 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 MassHealth as being instrumental to the health care of the member.

(C) 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) MassHealth will consider individual circumstances when determining the number of hours of physical assistance that a member requires for IADLs.

In this case, MassHealth modified the appellant's PA request for PCA services by approving 30 of the 40 minutes requested for PCA assistance with dressing.<sup>1</sup> This modification is supported by the record. The appellant described her dressing routine in detail, indicating that the entire process takes about one hour. MassHealth did not specifically dispute this testimony, but persuasively pointed out that the appellant's routine includes tasks for which time has been authorized under different categories in the PCA evaluation. Specifically, MassHealth authorized separate time for lotion application, blood pressure checks, as well as putting on the appellant's braces and compression socks (Exhibit 3, pp. 16, 24 and 25). This time (over 20 minutes per day), coupled with the 30 minutes MassHealth has authorized specifically for assistance with dressing, should meet the appellant's needs in this category.<sup>2</sup> The appellant has not demonstrated that any additional time for assistance with dressing is justified, and this portion of the appeal is denied.

MassHealth also initially modified the appellant's request for PCA assistance with blood pressure check from 5 minutes, 4 times per day, 7 days per week, to 5 minutes, 2 times per day, 7 days per week (Exhibit 3, p. 24). After hearing the appellant's testimony that her blood pressure is checked 3 times per day, MassHealth revised its modification and agreed to approve 5 minutes, 3 times per day, 7 days per week. The appellant contends, however, that each blood pressure check takes more than 5 minutes due to frequent monitor malfunction, the need for cuff adjustments, and the time for recording each reading. However, because MassHealth cannot approve more time than the PCM agency has requested, this portion of the appeal is denied as well.

## **Order for MassHealth**

Terminate aid pending and authorize additional time as agreed to at the hearing.

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<sup>1</sup> MassHealth also initially modified the appellant's request by approving 20 of the 30 minutes she sought for PCA assistance with undressing. MassHealth subsequently restored the time to 30 minutes, and thus this portion of the appeal is dismissed.

<sup>2</sup> The appellant also testified that the dressing process includes assessment of her catheter site. While not specifically addressed by the MassHealth representative at hearing, it bears noting that the evaluation also includes time for catheter care under the category of toileting (Exhibit 3, p. 20).

## **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.

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Sara E. McGrath  
Deputy Director  
Board of Hearings

cc: Optum