

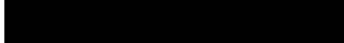
Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2401378
Decision Date:	4/2/2024	Hearing Date:	03/06/2024
Hearing Officer:	Christine Therrien		

Appearance for Appellant:



Appearance for MassHealth:

Robin Brown, OT (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

Appeal Decision:	Denied	Issue:	PCA
Decision Date:	4/2/2024	Hearing Date:	03/06/2024
MassHealth's Rep.:	Robing Brown, OT	Appellant's Rep.:	
Hearing Location:	Quincy Harbor South Telephonic		

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 1/16/24, MassHealth modified the appellant's prior authorization request for a personal care attendant (PCA). (130 CMR 422.410; Exhibit 1). The appellant filed this appeal in a timely manner on 2/1/24. (130 CMR 610.015(B); Exhibit 2). Modifications of a request for assistance are valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

MassHealth modified the appellant's prior authorization request for PCA services.

Issue

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

Summary of Evidence

The MassHealth representative testified that a Prior Authorization (PA) for PCA hours was received from Ethos on 10/24/23, which requested 26 hours and 30 minutes per week. This PA of PCA

services is applicable for dates of service beginning 1/16/2024 and ending 1/15/2025. The MassHealth representative testified that MassHealth authorized 11 hours and 0 minutes per week. The appellant was ■ years old, and his primary diagnosis is bipolar disorder with mild cognitive impairment. The appellant was living with his mother when the evaluation was conducted, the appellant's mother also receives PCA services. The MassHealth representative testified that sometimes the appellant lives with his sister. The MassHealth representative testified that modifications were made to the appellant's request for Activities of Daily Living (ADLs) which include eating and for Instrumental Activities of Daily Living (IADLs) which include meal prep, laundry, housekeeping, and shopping. The MassHealth representative testified the appellant requested 10 minutes, 2 times a day, 7 days a week for eating. MassHealth modified this request to zero because the evaluation indicates the appellant requires assistance with eating due to being unable to initiate and follow through with the task. The MassHealth representative testified that MassHealth will not pay to supervise ADLs. The MassHealth representative testified the appellant requested 95 minutes per day for meal prep. MassHealth modified the request to zero. The MassHealth representative testified the appellant requested 45 minutes per week for shopping. MassHealth modified this request to zero. The MassHealth representative testified the appellant requested 90 minutes per week for laundry. MassHealth modified this request to 30 minutes. The MassHealth representative testified the appellant requested 35 minutes per week for housekeeping. MassHealth modified this request to 20 minutes. The MassHealth representative testified all the IADLs were modified because the appellant lives with another household member who receives PCA services and IADLs are shared when more than one member of the household receives PCA services. The MassHealth representative testified that the appellant's mother already receives the maximum time allowed for meal prep and shopping. The MassHealth representative testified that the time allowed for laundry and housekeeping brings the household to the maximum time allowed for laundry and housekeeping.

The appellant was represented by his brother. The appellant's representative testified that the appellant sometimes lives with his sister and requires PCA assistance.

The MassHealth representative testified that the evaluation was performed at the appellant's mother's house and her address was used on his application, so MassHealth considers that his residence.

Findings of Fact

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

1. A PA for PCA hours was received from Ethos on 10/24/23, which requested 26 hours and 30 minutes per week.
2. The dates of service are from 1/16/2024 to 1/15/2025.

3. MassHealth authorized 11 hours and 0 minutes per week.
4. The appellant was [REDACTED] years old, and his primary diagnosis is bipolar disorder with mild cognitive impairment.
5. The evaluation took place at the appellant's mother's residence and the mother's address was used for the appellant's application.
6. The appellant's mother also receives PCA services.
7. Sometimes the appellant lives with his sister.
8. Modifications were made to the appellant's request for ADLs which include eating.
9. Modifications were made to the appellant's request for IADLs which include meal prep, laundry, housekeeping, and shopping.
10. The appellant requested 10 minutes, 2 times a day, 7 days a week for eating.
11. MassHealth modified the request for time for assistance with eating to zero because the evaluation indicates the appellant requires assistance with eating because he is unable to initiate and follow through with the task.
12. MassHealth will not pay to supervise ADLs.
13. The appellant requested 95 minutes per day for meal prep. MassHealth modified this request to zero.
14. The appellant requested 45 minutes per week for shopping. MassHealth modified this request to zero.
15. The appellant requested 90 minutes per week for laundry. MassHealth modified this request to 30 minutes.
16. The appellant requested 35 minutes per week for housekeeping. MassHealth modified these requests to 20 minutes.
17. All the IADLs were modified because the appellant lives with another household member who receives PCA services and IADLs are shared when more than one member of the household receives PCA services.

18. The appellant's mother already receives the maximum time allowed for meal prep and shopping.
19. The time allowed for laundry and housekeeping brings the household to the maximum time allowed for laundry and housekeeping.

Analysis and Conclusions of Law

MassHealth covers personal care services provided to eligible MassHealth members who can be appropriately cared for in the home when all 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 or grooming;
 - (d) dressing or undressing;
 - (e) range-of-motion exercises;
 - (f) eating; and
 - (g) toileting.
- (4) The Division has determined that the PCA services are medically necessary and has granted a prior authorization for PCA services. See 130 CMR 422.403(C).

MassHealth will pay for PCA services provided to MassHealth members who can be appropriately cared for in the home (130 CMR 422.401 et seq.). The member must require physical assistance. The personal care agency determines the extent of the personal care services provided by a paid PCA (130 CMR 422.403). Personal care services consist of physical assistance with activities of daily living (ADL'S) (130 CMR 422.410(A)).

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

- (A) Activities of Daily Living. 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. 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) 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.

(emphasis added)

Since the appellant is living with another PCA recipient the appellant will split the maximum allowed time for meal prep, laundry, housekeeping, and shopping.

Pursuant to 130 CMR 422.412, "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.

(emphasis added)

The appellant suffers from cognitive impairment and does not initiate or follow through with tasks thus requiring the PCA to wait for him. MassHealth does not pay for the time the PCA has to wait or cue the appellant to eat. Due to the appellant's cognitive impairment he requires assistance with all ADLs. MassHealth took into consideration the time it ordinarily takes to perform each ADL and allotted time for each task accordingly. The appellant's brother did not identify anything unique to the appellant that caused the ADLs to take longer than ordinary for maximum hands-on assistance. All the IADLs were modified because the appellant lives with another household member who receives PCA services and IADLs are shared when more than one member of the household receives PCA services. The appellant's mother already receives the maximum time allowed for meal prep and shopping. The time allowed for laundry and housekeeping brings the household to the maximum time allowed for laundry and housekeeping. For these reasons, 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.

Christine Therrien
Hearing Officer
Board of Hearings

cc:

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