

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	APPROVED	<b>Appeal Number:</b>	2401400
<b>Decision Date:</b>	5/28/2024	<b>Hearing Date:</b>	02/28/2024
<b>Hearing Officer:</b>	Kenneth Brodzinski	<b>Record Open to:</b>	04/03/2024

**Appearance for Appellant:**

Pro se

**Appearance for MassHealth:**

Kelly Rayen, RN



*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	<b>Issue:</b>	Prior Authorization – PCA
<b>Decision Date:</b>	5/28/2024	<b>Hearing Date:</b>	02/28/2024
<b>MassHealth's Rep.:</b>	Kelly Reyan, RN	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Quincy		

### Authority

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

### Jurisdiction

Through notice dated December 22, 2023, MassHealth modified a request for prior authorization for Personal Care Attendant (PCA) services by denying some of the requested time for service ([Exhibit A](#)). Appellant filed for this appeal in a timely manner on January 28, 2024 seeking approval for the denied time (see 130 CMR 610.015(B) and [Exhibit A](#)). Denial of prior authorization for assistance constitutes valid grounds for appeal (see 130 CMR 610.032).

### Action Taken by MassHealth

MassHealth modified a request for prior authorization for PCA services by denying some of the requested time for service.

### Issue

The appeal issue is whether MassHealth properly applied the controlling regulation(s) to accurate facts when it modified Appellant's request for prior authorization for PCA services by denying some of the requested time for service.

## Summary of Evidence

Both parties appeared by telephone. Prior to hearing, MassHealth submitted a packet of documents that includes a copy of the prior authorization request and accompanying nurse's evaluation (Exhibit B). After the hearing, the record was held open to allow Appellant to submit additional documentation (Exhibit C) and for MassHealth to file a written response (Exhibit D).

MassHealth was represented by a clinical nurse reviewer who testified that Appellant is a male in his 60's with primary diagnosis of: lower back inflammation, arthritis, degenerative lumbar disease, shoulder bursitis, torn rotator cuff and idiopathic foot drop. He has been blind since the age of [REDACTED] and he is independent with white cane.

A Prior Authorization (PA) request for a Personal Care Attendant (PCA) initial evaluation was submitted to MassHealth on December 1, 2023, by BCIL for 53 hours and 0 minutes per week for one year. MassHealth modified the request on December 22, 2023, to 45 hours and 30 minutes/week for one year. Dates of service: December 22, 2023, to December 21, 2024.

MassHealth modified (reduced time requested) in the following four areas of assistance: electronic muscle stimulation (E-stim); massage gun therapy; Dyna splint application and MD transport. By the end of the hearing and the record close date, the parties agreed to the following: massage gun therapy – restored to time requested; Dyna-splint application agreed to 10 minutes, twice per day, seven days per week; MD transport agreed to a total of 95 minutes per week which includes 20 acupuncture visits, bi-weekly testosterone injections and weekly chiropractor visits (Exhibit D).

The only modification which remains in dispute is time for assistance with E-stim. Appellant requested 15 minutes, twice per day, seven days per week. MassHealth modified the time for task from 15 minutes down to 8 minutes but did not modify the frequency. MassHealth noted that given that Appellant is independent with mobility and transfers, the requested 15 minutes would be excessive.

Appellant testified that he timed the activity. Appellant explained that he has to get fully undressed and positioned face down with various pillows placed for support. 4 electro pads are then placed on his lower back plus an electric heating pad. The E-stim machine is then turned on and it ramps up and down to a set timer. When the stimulation session is completed, the pads have to be disconnected, removed, and put away with the equipment and heating pad. The PCA then cleans Appellant's back, removes the pillows, and repositions him and gets him dressed again.

MassHealth agreed to increase the time to 10 minutes. Appellant maintained that the requested 15 minutes were warranted.

## Findings of Fact

Based on a preponderance of the evidence, this record supports the following findings:

1. Appellant is a male in his 60's with primary diagnosis of: lower back inflammation, arthritis, degenerative lumbar disease, shoulder bursitis, torn rotator cuff and idiopathic foot drop.
2. Appellant has been blind since the age of [REDACTED] and he is independent with white cane.
3. A Prior Authorization (PA) request for a Personal Care Attendant (PCA) initial evaluation was submitted to MassHealth on December 1, 2023, by BCIL for 53 hours and 0 minutes per week for one year.
4. MassHealth modified the request on December 22, 2023, to 45 hours and 30 minutes/week for one year. Dates of service: December 22, 2023, to December 21, 2024.
5. MassHealth modified (reduced time requested) in the following four areas of assistance: electronic muscle stimulation (E-stim); massage gun therapy; Dyna splint application and MD transport.
6. By the end of the hearing and the record close date, the parties agreed to the following: massage gun therapy – restored to time requested; Dyna-splint application agreed to 10 minutes, twice per day, seven days per week; MD transport agreed to a total of 95 minutes per week which includes 20 acupuncture visits, bi-weekly testosterone injections and weekly chiropractor visits (Exhibit D).
7. The only modification which remained in dispute was time for assistance with E-stim.
8. Appellant requested 15 minutes, twice per day, seven days per week for E-stim.
9. MassHealth modified the time for task from 15 minutes down to 8 minutes (but did not modify the frequency) basing the decrease on the fact that Appellant is independent with mobility and transfers.
10. Appellant timed the E-stim activity.
11. The E-stim activity involves Appellant getting fully undressed and positioned face down with various pillows placed for support. 4 electro pads are then placed on his lower back plus an electric heating pad. The E-stim machine is then turned on and it ramps up

and down to a set timer. When the stimulation session is completed, the pads are disconnected, removed, and put away with the equipment and heating pad. The PCA then cleans Appellant's back, removes the pillows, and repositions him and gets him dressed again.

12. MassHealth agreed to increase the time to assist with E-stim from 8 to 10 minutes per incidence.

## **Analysis and Conclusions of Law**

The written authorization request shows that Appellant requested time to assist with dressing once per day and undressing once per day. MassHealth allowed 20 minutes for one episode of dressing per day and 12 minutes for one episode of undressing per day (Exhibit B, page 21). Given that the E-stim activity involves undressing and dressing, it is not reasonable to conclude that the activity which also involves positioning and re-positioning, application and removal of devices and clean-up would only take 8 or 10 minutes. Appellant testified that he timed the activity at the requested 15 minutes. 15 minutes is reasonable given what the task involves.

For the foregoing reasons, the appeal is approved as to the remaining unresolved issue of time for assistance with E-stim.

## **Order for MassHealth**

In addition to the times restored and agreed to (as set forth in MassHealth's post-hearing submission, Exhibit D) increase time for E-stim from 8 minutes to the requested 15 minutes, twice per day, seven days per week.

## 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 the Enrollment Center gives you any problems with implementing 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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Kenneth Brodzinski  
Hearing Officer  
Board of Hearings

cc:

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