

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2402514
Decision Date:	05/14/2024	Hearing Date:	03/21/2024
Hearing Officer:	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

Appeal Decision:	Denied	Issue:	Prior Authorization, Personal Care Attendant services
Decision Date:	05/14/2024	Hearing Date:	03/21/2024
MassHealth's Rep.:	Donna Burns, RN	Appellant's Rep.:	
Hearing Location:	Quincy Harbor South	Aid Pending:	No

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 February 9, 2024, MassHealth approved the appellant's PA request for PCA services with modifications. (See 130 CMR 422.410(A)(5); 422.410(B)(1); 422.412(A); 450.204(A)(1); Exhibit (Ex.) 1; Ex. 6, pp. 3-5). The appellant filed this appeal in a timely manner on February 20, 2024. (See 130 CMR 610.015(B) and Ex. 2). 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)(5); 422.410(B)(1); 422.412(A); and 450.204(A)(1) in modifying the request for PCA services.

Summary of Evidence

MassHealth was represented by a registered nurse and clinical appeals reviewer working for

MassHealth's agent, Optum. The appellant spoke on his own behalf. The MassHealth representative and the appellant attended the hearing by telephone.

The MassHealth representative testified to the following. On January 30, 2024, AdLib, Inc (the PCM agency) submitted a reevaluation prior authorization request to MassHealth for 47 hours, 15 minutes per week of PCA services. (Testimony; Ex. 6, pp. 6-47). The appellant's history, according to the PCM agency's documentation, shows that the appellant is under the age of 65 years old with a primary diagnosis of right-side cerebrovascular accident (CVA) caused left-side hemiparesis. (Testimony; Ex. 6, pp. 6-7). In the notice dated February 9, 2024, MassHealth approved 33 hours, 15 minutes per week of PCA services, notifying the appellant that it had modified the time requested for two activities of daily living (ADLs) and one instrumental activity of daily living (IADL). (Testimony; Ex. 1; Ex. 6, pp. 3-5).

1. Physical Assistance with Stairs

The PCM agency requested eight minutes, two times per day, seven days per week for physical assistance with stairs. (Testimony; Ex. 6, p. 11). The PCM agency wrote the appellant required "[a]ssist to ambulate stairs while using cane...unable d/t (L) hemiparesis/poor balance, high fall risk, decr'd functional ability, incr'd severity of symptoms, balance/stiffness worse, (B) LE spasms, incr'd age, nature of illness. (Ex. 6, p. 11). MassHealth denied the time requested for physical assistance with stairs because it was considered a social service (such as respite care, babysitting, or vocational rehabilitation) and was not covered through the PCA program. (Testimony; Ex. 1; Ex. 6, pp. 2-5). The MassHealth representative explained that the appellant's apartment did not contain internal stairs. (Testimony). MassHealth does not cover assistance with external stairs unless requested as part of medical transportation. (Testimony). The PCM agency did not request assistance with medical transportation for the appellant. (Testimony; Ex. 6, p. 33). The appellant confirmed that his current apartment did not have stairs. (Testimony). The appellant thought that maybe this was the PCM agency's mistake because his former apartment did have stairs. (Testimony).

2. Passive Range of Motion (PROM)

The PCM agency requested 35 minutes, two times per day for PROM exercises for the appellant upper left extremity and 35 minutes, two times per day for the appellant's lower left extremity. (Testimony; Ex. 6, p. 13). The PCM agency wrote the appellant required "PROM for (L) UE/LE to promote circulation/joint & muscle flexibility/offset contractures d/t (L) hemiparesis, consumer reported incr'd (L) UE stiffness/pain & impaired use, (L) LE stiffness/pain in the am, stiffness/heaviness in legs - PROM improves condition/reduces spasms & cramping, comes on suddenly & has to stop what he's doing, ROM prevents it[.]" (Ex. 6, p. 13). MassHealth modified this to 10 minutes, two times per day for both upper and lower left extremities because the time requested was longer than ordinarily required for someone with the appellant's physical needs. (Testimony; Ex. 1; Ex. 6, pp. 3-5). The MassHealth representative stated that in PROM, the individual is entirely passive, and the exercises are performed on the individual by the PCA.

(Testimony). This would be something that the PCA would do while the individual is lying down. (Testimony). The MassHealth representative explained that 70 minutes per day per limb is considered excessive for PROM. (Testimony). The appellant stated that he required more assistance with physical and occupational therapy in order to strengthen his limbs. (Testimony). The MassHealth representative responded that physical and occupational therapy services might be covered by MassHealth, but not through the PCA program. (Testimony).

3. Meal Preparation

The PCM agency requested a total of 95 minutes per day of assistance with meal preparation¹. (Testimony; Ex. 6, p. 29). MassHealth modified this to 90 minutes per day because this was the maximum amount of time MassHealth approves for meal preparation. (Testimony). The appellant did not offer a response to this.

In conclusion, the appellant testified that he needed more PCA assistance than MassHealth had approved for him. (Testimony). The appellant was encouraged to refer to the MassHealth packet and speak to the PCM agency about requesting increases for activities MassHealth approved.

Findings of Fact

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

1. The appellant is under the age of 65 years old with a primary diagnosis of right-side CVA caused left-side hemiparesis. (Testimony; Ex. 6, pp. 6-7).
2. On January 30, 2024, the PCM agency submitted a reevaluation prior authorization request to MassHealth for 47 hours, 15 minutes per week of PCA services. (Testimony; Ex. 6, pp. 6-47).
3. In the notice dated February 9, 2024, MassHealth approved 33 hours, 15 minutes per week of PCA services, notifying the appellant that it had modified the time requested for two activities of daily living (ADLs) and one instrumental activity of daily living (IADL). (Testimony; Ex. 1; Ex. 6, pp. 3-5).
4. The PCM agency requested eight minutes, two times per day, seven days per week for physical assistance with stairs. (Testimony; Ex. 6, p. 11).
5. MassHealth denied the time requested for physical assistance with stairs because it was considered a social service (such as respite care, babysitting, or vocational rehabilitation) and was not covered through the PCA program. (Testimony; Ex. 1; Ex. 6, pp. 2-5).

¹ The PCM agency actually requested daily assistance for meal preparation in the following increments: 20 minutes for breakfast, 30 minutes for lunch, and 45 minutes for dinner. (Ex. 6, p. 29).

6. The appellant's apartment does not contain internal stairs, and MassHealth does not pay for assistance for external stairs as part of the PCA program unless requested as part of medical transport. (Testimony).
7. The PCM agency requested 35 minutes, two times per day for PROM exercises for the appellant upper left extremity and 35 minutes, two times per day for the appellant's lower left extremity. (Testimony; Ex. 6, p. 13).
8. MassHealth modified this to 10 minutes, two times per day for both upper and lower left extremities because the time requested was longer than ordinarily required for someone with the appellant's physical needs. (Testimony; Ex. 1; Ex. 6, pp. 3-5).
9. In PROM, the individual is entirely passive, and the exercises are performed on the individual by the PCA. (Testimony).
10. PROM is something that the PCA would do to individual while they are lying down. (Testimony).
11. 70 minutes per day per limb is considered excessive for PROM. (Testimony).
12. The PCM agency requested a total of 95 minutes per day of assistance with meal preparation. (Testimony; Ex. 6, p. 29).
13. MassHealth modified this to 90 minutes per day because this was the maximum amount of time MassHealth approves for meal preparation. (Testimony).

Analysis and Conclusions of Law

As a prerequisite to payment for PCA services, the PCM agency must request prior authorization from MassHealth. (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 are those specific activities performed by a PCA to physically assist a member with mobility, or with PROM exercises. (130 CMR 422.402; 422.410(A)). IADLs are those specific activities that are instrumental to the care of the member's health and are performed by a PCA, such as meal preparation. (130 CMR 422.402; 422.410(B)(2)).

MassHealth does not cover 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. (130 CMR 422.412(A)). 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)).

The appellant did not demonstrate that there was a medical necessity for the time the PCM agency requested for mobility assistance on stairs. The appellant's current apartment does not contain stairs, a fact which the appellant confirmed. The appellant stated that the PCM agency may have made a mistake here because his former living space did contain stairs. The appellant stated that there were stairs in the building in which he lives. Mobility assistance of any kind is for assistance within the appellant's home, however, not outside the home. This is considered a social service and MassHealth does not cover such social services.²

There is no evidence that there was a medical necessity for the level of PROM the PCM agency requested. The MassHealth representative testified that 35 minutes, twice a day for each of the appellant's upper and lower left extremities, 140 minutes per day overall, was excessive according to medical standards. Generally, in order for a service to be medically necessary it must be of a quality that meets professionally recognized standards of health care, and must be substantiated by records including evidence of such medical necessity and quality. (See 130 CMR 450.204(B)). There was no evidence submitted supporting the need for that amount of PROM. MassHealth appropriately modified the requested time.

As for the assistance with meal preparation, the time requested exceeded the maximum amount MassHealth generally approves for this IADL. MassHealth modified the time from 95 minutes to 90 minutes, which is the maximum time allotted for meal preparation. Neither the PCM agency nor the appellant explained a reason that could justify approving more than 90 minutes for this IADL.

For the above reasons, the appeal is DENIED.³

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

² If, however, the PCM agency had requested PCA assistance with medical transportation, mobility assistance outside the home is covered as part of transportation to medical providers. (See 130 CMR 422.410(B)). The PCM agency did not request such assistance, however. (See Ex. 6, p. 33).

³ The appellant did express disappointment with the overall amount of time approved for PCA services. The appellant was informed, however, that this hearing only concerned modifications MassHealth made to two ADLs and one IADL. The appellant may wish to discuss the time the PCM agency requested for other ADLs and IADLs, which MassHealth approved.

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.

Scott Bernard
Hearing Officer
Board of Hearings

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