

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2402951
Decision Date:	4/24/2024	Hearing Date:	04/11/2024
Hearing Officer:	Susan Burgess-Cox		

Appearance for Appellant:



Appearance for MassHealth:

Kelly Rayen, R.N.



*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
Decision Date:	4/24/2024	Hearing Date:	04/11/2024
MassHealth's Rep.:	Kelly Rayen, R.N.	Appellant's Rep.:	POA
Hearing Location:	All Parties Appeared by Telephone	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 January 31, 2024, MassHealth denied the appellant's prior authorization request for personal care services. (130 CMR 422.000; Exhibit 1). The appellant filed this appeal in a timely manner on February 27, 2024. (130 CMR 610.015(B); Exhibit 2). Denial of assistance is valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied the appellant's prior authorization request for personal care services.

Issue

Whether MassHealth was correct in denying the appellant's request for personal care services. (130 CMR 422.410).

Summary of Evidence

The appellant is over the age of 65. At the time of the assessment, the appellant was living alone in a multi-story home. (Testimony; Exhibit 8). At the time of the December 2023 assessment, the

appellant was receiving one meal each week from elder services. (Testimony; Exhibit 8). The appellant had a hospitalization in [REDACTED] 2023 due to nausea and vomiting. (Exhibit 8). After the hospitalization, the appellant spent three weeks in inpatient rehabilitation. (Exhibit 8). The appellant's diagnoses include paranoid schizophrenia, cognitive deficits, arthritis and lymphedema. (Testimony; Exhibit 8). At the December 2023 assessment, the appellant was able to ambulate independently without any assistive device. (Testimony; Exhibit 8). The appellant sleeps in a standard bed and can transfer in and out of the bed independently. (Exhibit 8). The appellant has a bathtub with a grab bar and reported being able to transfer in and out of the tub independently. (Testimony; Exhibit 8). The appellant reported that she can bathe without any physical assistance. (Exhibit 8). The appellant has her own teeth and brushes them independently. At the December 2023 assessment, the appellant was observed to put on a sock and shoe independently and reported that she can put clothing on independently, unless it goes behind her back or has fasteners. (Testimony; Exhibit 8). The appellant has a device that provides an auditory reminder to take medications. (Exhibit 8).

The appellant submitted a prior authorization request for personal care services. The appellant requested 6.75 hours each week. The appellant requested assistance with nail care, 5 minutes, one time each week. The documents submitted state that the appellant requires assistance with all finger and toenail clipping as her intricate fine motor skills are minimal. The appellant requested 3 minutes, one time each week for assistance with prefilling a medication box. (Testimony; Exhibit 8). The appellant requested assistance with meal preparation, laundry, shopping and housekeeping. (Testimony; Exhibit 8).

MassHealth denied the request as the appellant did not request assistance with two or more activities of daily living (ADLs). The two ADLs requested by the PCM agency are those that can be completed for less than 8 minutes one time each week; they do not require assistance time each day.

The MassHealth representative testified that the agency initially deferred the prior authorization request, as the documentation indicated that the appellant may require time for assistance with tasks such as dressing, and the Personal Care Management (PCM) agency did not request any time for those services. Additionally, the PCM agency noted that the appellant may benefit from the use of a grab bar and chair in the shower, but did not request any time for assistance with bathing or transfers.

The MassHealth representative testified that the appellant's file underwent a review by a medical doctor and it was determined that the documentation did not demonstrate that PCA services were medically necessary. The MassHealth representative testified that the agency cannot add time for services; it can only approve, deny or decrease what was submitted by the PCM agency.

The MassHealth representative testified that this decision was based on the regulations at 130 CMR 422.402 (C) which state that MassHealth covers PCA services provided to eligible MassHealth

members who can be appropriately cared for in the home when all of the following conditions are met.

- (1) The PCA services are authorized for the member in accordance with 130 CMR 422.416.
- (2) The member's disability is permanent or chronic in nature and impairs the member's functional ability to perform ADLs and Instrumental Activities of Daily Living (IADLs) without physical assistance.
- (3) The member, as determined by the PCM agency, requires physical assistance with two or more of the ADLs as defined in 130 CMR 422.410(A).
- (4) The MassHealth agency has determined that the PCA services are medically necessary

The MassHealth representative testified that the records presented to the agency do not indicate that the appellant required assistance with two or more ADLs which are defined in 130 CMR 422.410(A):

- (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 bathing, personal hygiene, or grooming;
- (4) dressing: 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 or bladder needs.

MassHealth denied the request for assistance with IADLs as the appellant did not require assistance with two or more activities of daily living (ADLs), and therefore did not meet the requirements to receive coverage for PCA services.

Prior to the hearing, the appellant presented medical records that were reviewed by the MassHealth representative. (Exhibit 9). The records include a letter from the appellant's daughter providing a personal and medical history for the appellant, notes from a visit to a doctor in March 2024 for a bilateral lower extremity edema consultation and records from 1993 that discuss a diagnosis of paranoid schizophrenia. (Exhibit 9). The MassHealth representative noted that the agency did not question the diagnoses in the documents presented by the appellant. The decision was not based upon the diagnoses. Instead, it was based upon the appellant's physical need for

assistance with ADLs, and the records presented by the PCM agency did not meet the requirements for MassHealth to approve such services.

The appellant's daughter testified that the appellant currently resides with her. The appellant's daughter argued that MassHealth should be able to consider the documentation regarding the appellant's medical history in approving the time requested for PCA services. The appellant's daughter testified that the appellant requires more assistance and the assessment performed by the Personal Care Management (PCM) Agency was not accurate. The MassHealth representative responded that there are other PCM agencies that the appellant can contact if the one who submitted the PCA request on appeal did not provide an accurate assessment.

Findings of Fact

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

1. The appellant is over the age of 65.
2. At the time of the December 2023 assessment, the appellant was living on her own in a multi-story home.
3. At the time of the December 2023 assessment, the appellant was receiving one meal each week from elder services.
4. The appellant had a hospitalization in [REDACTED] 2023 due to nausea and vomiting.
5. Following the hospitalization, the appellant spent three weeks in inpatient rehabilitation.
6. The appellant's diagnoses include paranoid schizophrenia, cognitive deficits, arthritis and lymphedema.
7. At the assessment, the appellant was able to ambulate independently without any assistive device.
8. The appellant sleeps in a standard bed and can transfer in and out of the bed independently.
9. The appellant has a bathtub with a grab bar and can transfer in and out of the tub independently.
10. The PCM agency did not request any time for assistance with mobility or transfers.

11. The appellant can bathe herself without any physical assistance.
12. The appellant has her own teeth and brushes them independently.
13. At the assessment, the appellant was able to put on a sock and shoe independently and reported that she can put clothing on independently, unless it goes behind her back or has fasteners.
14. The PCM agency did not request any time for assistance with bathing, dressing or undressing.
15. The PCM agency requested 5 minutes, one day each week for assistance with nail care.
16. The appellant has a device that provides an auditory reminder to take medications.
17. The appellant requested 3 minutes one time each week for assistance with prefilling a medication box.
18. The PCM agency requested time for assistance with meal preparation, laundry, shopping and housekeeping.

Analysis and Conclusions of Law

Pursuant to 130 CMR 422.403(C), MassHealth covers Personal Care Attendant (PCA) services provided to eligible MassHealth members who can be appropriately cared for in the home when all of the following conditions are met.

- (1) The PCA services are authorized for the member in accordance with 130 CMR 422.416.
- (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 PCM agency, requires physical assistance with two or more of the ADLs as defined in 130 CMR 422.410(A).
- (4) MassHealth has determined that the PCA services are medically necessary.

ADLs defined at 130 CMR 422.410(A) include:

- (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 bathing, personal hygiene, or grooming;
- (4) dressing: 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 or bladder needs.

A service is medically necessary if:

- (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: Potential Sources of Health Care, or 517.007: Utilization of Potential Benefits. (130 CMR 450.204(A)).

Medically necessary services 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. (130 CMR 450.204(B)).

While the appellant requested assistance with two or more activities, they were not daily activities. Instead, they were weekly activities that could be completed in 8 minutes each week. That is far from a request for assistance with daily activities. The appellant's representatives presented testimony and evidence of diagnoses of the appellant and errors they felt were made by the Personal Care Management (PCM) agency. However, the diagnoses of the appellant were not the basis of the decision made by MassHealth, and MassHealth can only look to the submission presented to them for review and approval. As noted by the MassHealth representative at hearing, the agency cannot add time for services, it can only review and approve, deny or decrease the time requested by the PCM agency.

The majority of the time requested was for assistance with IADLs, and the appellant's representative provided extensive testimony regarding the appellant's need for assistance with such activities. However, as noted above, MassHealth does not authorize coverage for IADLs alone, and requesting time for two tasks that occur one time each week does not satisfy the MassHealth requirement that a member demonstrate a need for assistance with two or more daily activities. (130 CMR 422.403; 130 CMR 422.410).

The decision made by MassHealth was correct.

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.

Susan Burgess-Cox
Hearing Officer
Board of Hearings

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