

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2403384
<b>Decision Date:</b>	4/24/2024	<b>Hearing Date:</b>	04/03/2024
<b>Hearing Officer:</b>	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

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Prior Authorization
<b>Decision Date:</b>	3/24/2024	<b>Hearing Date:</b>	04/03/2024
<b>MassHealth's Rep.:</b>	Kelly Rayen, R.N.	<b>Appellant's Rep.:</b>	Mother
<b>Hearing Location:</b>	All Parties Appeared by Telephone		

### 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 30, 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 March 1, 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 in her [REDACTED] and lives with her children. The appellant's mother is the appellant's Personal Care Attendant (PCA). The appellant has a primary diagnosis of [REDACTED]. The appellant also has diagnoses of [REDACTED] disease and arthritis. The appellant had gastric

bypass surgery in [REDACTED] 2023. The appellant reported having double jointing in the ankles, neck pain, chronic right knee pain, bilateral shoulder pain and tendonitis.

The appellant underwent a re-evaluation for PCA services. Present at the time of the evaluation were the appellant and the nurse performing the evaluation. The nurse performing the evaluation reported that the appellant was appropriately dressed and well groomed. The nurse's notes indicate that there were no safety hazards. During the evaluation, the appellant reported several falls over the past 12 months but did not seek medical attention or report injuries.

On January 24, 2024, MassHealth received a prior authorization request for PCA services. The appellant requested 10.5 day/evening hours each week. Records show that the appellant is independent with most activities of daily living (ADLs) and requested minimal assistance with transfers, hair washing, dressing, undressing and toileting. (Testimony; Exhibit 4). The appellant requires moderate assistance with laundry, shopping and housekeeping. The appellant is independent with meal preparation for breakfast and lunch but requires moderate assistance with preparing dinner.

The MassHealth representative testified that the agency initially deferred the prior authorization request due to incomplete documentation. MassHealth requested documentation to support the appellant's need for physical assistance with transfers as the submission indicates that the appellant was independent with ambulation. MassHealth requested documentation related to the need for physical assistance with hair washing, dressing and undressing as the submission indicates that the appellant is independent with bathing. MassHealth requested documentation to support the need for assistance with meal preparation for dinner as the submission indicates that the appellant is independent with preparation of other meals.

MassHealth received a response from the nurse evaluator stating that the appellant was observed to be independent with ambulation and did not appear to need physical assistance as the appellant is a young woman living with and caring for her toddler. The follow-up notes from the nurse evaluator state that the appellant needs minimal assistance with ADLs and Instrumental Activities of Daily Living (IADLs) based on the appellant's reports. The nurse evaluator did not have any other additional supporting information. Based upon the information presented in the initial request and follow-up, MassHealth denied the prior authorization request as the agency determined that the appellant did not require assistance with 2 or more activities of daily living (ADLs). (Testimony; Exhibit 4).

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 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 demonstrate that the appellant's disability is permanent or chronic in nature or impairs her ability to perform ADLs and IADLs without assistance. Additionally, MassHealth determined that the records did 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 IADLs also as the appellant did not require assistance with two or more activities of daily living (ADLs) so did not meet the requirements to receive MassHealth PCA services. The MassHealth representative noted that the appellant began receiving PCA services in 2020 when protections were put in place in response to the COVID-19 national emergency. These protections included not requiring in-person assessments, allowing less documentation than ordinarily required and not requiring signatures.

Prior to the hearing, the appellant presented medical records that were reviewed by the MassHealth representative. Included in the records are March 2024 progress notes from a neuro-ophthalmologist stating that the appellant is stable with respect to her symptoms of idiopathic intracranial hypertension. The notes state that the appellant underwent gastric sleeve surgery and lost a significant amount of weight. The appellant stopped taking medications related to the intracranial pressure prior to the surgery and had not restarted them without any side effects. The notes indicate that the appellant had headaches but they were not suggestive of high intracranial pressure. The notes state that the "patient is doing quite well off of [REDACTED] and status post gastric sleeve surgery. There is nasal fullness only, and as such I believe that she can be followed

now without medicines for idiopathic intracranial hypertension.” (Exhibit 5). The MassHealth representative testified that these records indicate that the appellant is showing signs of improvement and support a finding that her conditions are not permanent or chronic in nature.

The appellant also presented a report from a visit to an orthopedist in March 2024. Notes from the visit indicate that the appellant’s right wrist pain has completely resolved, and she was presenting for an evaluation of left wrist pain following a motor vehicle accident in December 2023. The notes state that the appellant is well-known to the doctor and lists a history of procedures related to pain in her left wrist. The assessment in the report states that the appellant’s left wrist is healing a sprain where she had a proximal row carpectomy for [REDACTED] in [REDACTED]. The notes indicate that the appellant is developing arthritis at the joint noting that it was minimally symptomatic prior to the wrist sprain. The recommendation from the physician was activity modification and occasional bracing if needed for the left wrist. The brace was to help the appellant heal and get back to her preinjury baseline.

The appellant’s mother testified that the appellant also has depression and anxiety. The appellant’s mother testified that the appellant requires assistance with washing her hair due to wrist pain. The appellant’s mother testified that the appellant requires assistance with cleaning, meal preparation and laundry. The appellant’s mother testified that the appellant requires more assistance because she has children who require care. The appellant testified that she needs assistance out of bed at times due to dizziness or intermittent pain in her wrist. The appellant testified that she is able to shower on her own but requires assistance with washing her hair, dressing and undressing. The appellant’s mother provides this assistance 3 or 4 times each week. On other days, the appellant can do some tasks on her own.

The appellant testified that she does not have any equipment in the home to assist with mobility or transfers. The appellant testified that she typically wears shoes that slide on and off and does not always get fully dressed. The appellant does not have any devices or equipment to assist with getting dressed or performing any other activities of daily living. The appellant testified that at times she pays others to perform tasks such as cleaning, shopping, laundry and meal preparation, as she is not able to perform these tasks on her own. The appellant testified that at times she has trouble holding onto things because of her arthritis.

## **Findings of Fact**

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

1. The appellant is in her [REDACTED] and lives with and provides care for her children.
2. The appellant has been eligible for PCA services since December 2020.
3. The appellant’s mother is the appellant’s Personal Care Attendant (PCA).

4. The appellant has diagnoses of [REDACTED] disease and arthritis.
5. The appellant had gastric bypass surgery in [REDACTED] 2023.
6. The appellant stopped taking some of her medications prior to and following the surgery.
7. The appellant continues to no longer require those medications.
8. The appellant reports double jointing in the ankles, neck pain, chronic right knee pain, bilateral shoulder pain and tendonitis.
9. The appellant underwent a re-evaluation for PCA services.
10. Present at the time of the evaluation were the appellant and the nurse performing the evaluation.
11. At the evaluation, the appellant was appropriately dressed and well groomed.
12. On January 24, 2024, MassHealth received a prior authorization request for PCA services.
13. The appellant requested 10.5 day/evening hours each week.
14. The appellant is independent with most activities of daily living (ADLs) including ambulation, bathing, grooming, eating and taking medications.
15. The appellant requested assistance with transfers in and out of bed, hair washing, dressing, undressing and toileting.
16. The appellant does not have or use any equipment to assist with transfers, mobility or other activities of daily living.
17. The appellant requires moderate assistance with laundry, shopping and housekeeping.
18. The appellant is independent with meal preparation for breakfast and lunch.
19. The appellant requested assistance with preparing dinner.
20. MassHealth initially deferred the prior authorization request due to incomplete documentation.
21. Upon reviewing the response sent from the agency, MassHealth denied the request for PCA services as the agency determined that the appellant did not require assistance with

two or more activities of daily living.

22. MassHealth denied the request for assistance with IADLs as the appellant did not require assistance with two or more ADLs.

## **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 ADLs, the records and testimony presented do not support these requests. The testimony and evidence presented by the appellant indicate that the conditions that would require such services are not permanent or chronic in nature. A diagnosis alone does not indicate that one requires the assistance of a Personal Care Attendant. The appellant and her representative provided extensive testimony regarding the appellant's need for assistance with IADLs such as housekeeping and laundry. However, the fact that the appellant's PCA or another adult is not with her each day to assist with activities such as toileting and transfers, indicates that the appellant does not require such assistance consistently. Additionally, the fact that the appellant does not have any equipment such as grab bars or an elevated toilet seat to assist her when she is alone indicates that the needs are not consistent.

The records and testimony indicate that the appellant began receiving treatment and services for several conditions in 2019 and 2020. Since that time, records indicate that the appellant's condition has improved and the appellant failed to demonstrate that she requires consistent assistance with two or more activities of daily living. Additionally, the appellant does not utilize any equipment to assist with tasks such as toileting, transfers or dressing, which would be less costly to MassHealth.

Since the appellant did not demonstrate that she requires assistance with at least two ADLs, she is not eligible for PCA services for assistance with IADLs. (130 CMR 422.403(C)).

The decision made by MassHealth was correct.

This appeal is denied.



## **Order for MassHealth**

Release the appellant's aid pending and implement the decision on appeal.

### **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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Susan Burgess-Cox  
Hearing Officer  
Board of Hearings

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