

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Dismissed in part; Denied in part; Approved in part	Appeal Number:	2403469
Decision Date:	5/29/2024	Hearing Date:	04/01/2024
Hearing Officer:	Kimberly Scanlon		

Appearance for Appellant:

Via telephone



Appearance for MassHealth:

Via telephone

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:	Dismissed in part; Denied in part; Approved in part	Issue:	Prior Authorization – PCA Services
Decision Date:	5/29/2024	Hearing Date:	04/01/2024
MassHealth’s Rep.:	Kelly Rayen, R.N.	Appellant’s Rep.:	Parents
Hearing Location:	Quincy Harbor South 4 (Remote)	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 27, 2024, MassHealth modified the appellant's prior authorization (PA) request for personal care attendant (PCA) services from the requested 21 hours and 0 minutes of PCA assistance per week for 40.28 school weeks, and 24 hours and 30 minutes of PCA assistance per week for 12 vacation weeks, to 13 hours and 0 minutes per week for 40.28 school weeks and 15 hours and 0 minutes per week for 12 vacation weeks (Exhibit 1). The appellant filed this appeal in a timely manner on or about February 27, 2024 (130 CMR 610.015; Exhibit 2). Modification of a PA request is valid grounds for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth modified the appellant's PA request for PCA services.

Issue

The appeal issue is whether MassHealth was correct in modifying the appellant's PA request for PCA services.

Summary of Evidence

The MassHealth representative, who is a registered nurse and clinical appeals reviewer, testified that the appellant is a non-verbal minor child. His primary medical diagnoses include autism, global developmental delay, and impaired coordination (Testimony, Exhibit 6, p. 8). The MassHealth representative testified that [REDACTED] a Personal Care Management ("PCM") services agency submitted a PA re-evaluation request to MassHealth on the appellant's behalf on February 12, 2024, seeking the following:

1. 21 hours, 0 minutes of day/evening PCA assistance per week, for 40.28 school weeks, and,
2. 24 hours, 30 minutes of day/evening PCA assistance per week, for 12 vacation weeks.

The MassHealth representative testified that by notice dated February 27, 2024, MassHealth modified the requested time to the following:

1. 13 hours, 0 minutes of day/evening PCA assistance per week, for 40.28 school weeks, and,
2. 15 hours, 0 minutes of day/evening PCA assistance per week, for 12 vacation weeks.

The time period for this PA request is February 27, 2024 through February 26, 2025 (Testimony, Exhibit 1, p. 2).

The MassHealth representative stated that there were 7 modifications made. First, MassHealth modified the category of "Mobility," from the requested amount of 5 minutes, 2 times per day, 5 days per week and 5 minutes, 6 times per day, 2 days per week for 40.28 school weeks, and 5 minutes, 6 times per day, 7 days per week for 12 vacation weeks, to 1 minute, 2 times per day, 5 days per week and 1 minute, 6 times per day, 2 days per week for 40.28 school weeks and 1 minute, 6 times per day, 7 days per week for 12 vacation weeks. MassHealth's rationale for the modification is that the time requested for assistance for assistance with mobility is longer than ordinarily required for someone with his physical needs (Testimony, Exhibit 6, p. 13). The MassHealth representative explained that the appellant was assessed by the PCM agency as a "minimal assist" as a pediatric consumer and does not appear to require the use of any assistive devices. *Id.* The documentation submitted on behalf of the appellant states that the consumer has an unsteady gait, impaired coordination, and balance, decreased body awareness and spatial awareness (Testimony, Exhibit 6, p. 14).

The appellant was represented by his parents at the hearing. His parents explained that mobility is difficult for the appellant to perform due to his size. Thus, it mostly takes more than one person to get him moving because if the appellant is unwilling to move, he will not do so. Therefore, an additional person must assist the appellant's mother if his father is working because the appellant frequently falls during the morning and evening hours and due to his size, it is difficult for his mother to manage singlehandedly. The appellant's father testified that it takes approximately 2 hours to get the appellant ready which is difficult to manage with his work schedule. He explained that maneuvering the appellant up and down the stairs is difficult as well because the appellant frequently refuses to use the stairs. The appellant's mother explained that she is physically unable to lift the appellant to carry him up and down the stairs. Additionally, placing a safety harness on the appellant and getting him on his school bus requires a 2-person assist and additional time. The appellant's parents explained that they do not have family support because both have lost their close relatives. Thus, they are simply asking for the PCA time that the PCM agency requested.

The MassHealth representative inquired whether the appellant can ambulate on his own. In response, the appellant's parents explained that the appellant requires guidance to walk down a set of stairs and frequently stops in between taking steps. His parents reiterated that due to the appellant's size, he requires a 2-person assist.

The MassHealth representative explained that each category is broken down time for task and "Stairs" is a separate category that was modified. In terms of the category of "Mobility", the MassHealth representative explained that mobility is the time counted for getting the appellant from point A to point B in the home (i.e. from the kitchen to the bathroom). Additionally, the PCA program does not cover prompting, guiding, or coaxing and the PCA is not compensated for "wait time." As an example, the MassHealth representative explained that if the appellant were to decide to take one step towards the kitchen and then stop to take a break, the break time is not included. Rather, the PCA is compensated solely for the time it takes to physically assist the appellant. Because the documentation submitted states that the appellant requires only minimal assistance, MassHealth modified the requested time in this category, as further described above.

The appellant's father explained that he discussed this modification with the PCM agency, and because neither he nor his wife have family support, the PCM agency agreed that the appellant requires a PCA for assisting the appellant with mobility, notwithstanding the excluded break time. The MassHealth representative stated that it remains unclear why the PCM agency requested 5 minutes here as the PA request submitted was evaluated and deferred for clarification. The deferral was made because the PCA agency requested time that is typically requested for an adult rather than a minor child, like the appellant. She explained that MassHealth uses a schematic to follow in reviewing PA requests, including guidelines, while considering the appellant's disabilities, capabilities, and parental responsibilities. The MassHealth representative inquired whether it takes longer than 1 minute for the PCA to get the appellant from the kitchen to the living room or from the kitchen to the bathroom. In response, the appellant's mother testified that due to the weight

and size of the appellant, it takes longer than 1 minute. She reiterated that if the appellant is not willing to walk, he will not do so and will stiffen his body and throw himself on the floor. On occasion, it takes more than 2 people to get the appellant up from the floor. The MassHealth representative inquired whether the appellant displays resistive behavior. The appellant's parents responded affirmatively and explained that they are working on this behavior with the appellant. The MassHealth representative testified that she would be willing to increase the 1 minute to 2 minutes in this category because it appeared that the 5 minutes requested is mostly time used for coaxing and prompting. The appellant's parents declined, stating that the PCM agency understands why the 5 minutes was requested. The appellant requires 5 minutes for mobility due to his size and resistance.

The second modification made was in the "Stairs" category. MassHealth modified the requested amount of 5 minutes, 2 times per day, 7 days a week for both school and vacation weeks to 2 minutes, 2 times per day, 7 days a week for both school and vacation weeks because the time requested for assistance with stairs is longer than ordinarily required for someone with the appellant's physical needs. The MassHealth representative reiterated that the appellant was assessed by the PCM agency as a minimal assist, in accordance with the documentation submitted by said agency. She testified that the documentation submitted also indicates that the appellant resides in a 2-story home with his bedroom located on the second floor (Exhibit 6, p. 14).

The appellant's parents testified that it takes the appellant additional time to use the stairs because he does not step one foot in front of the other. Rather, the appellant requires placing both feet on each step. Also, he cannot go up or down the stairs independently due to his unsteadiness. The MassHealth representative inquired whether the appellant uses a stair railing. The appellant's parents explained that he uses a railing on occasion, but if the appellant has something in his hand, he will not grab the railing. Therefore, he requires a 2-person assist to use the stairs. The MassHealth representative stated that she would be willing to increase the time from 2 minutes to 3 minutes. She explained that if the appellant requires a 2-person assist, the family member would be the second person to help the appellant get up and down the stairs. The appellant's father declined the offer and reiterated that he and his wife are looking for the full 5 minutes, as requested by the PCM agency.

The third modification made was in the "Bathing" category. MassHealth modified the requested amount of 45 minutes per day, 7 days per week to 25 minutes per day, 7 days per week for both school and vacation weeks because the time requested for bathing is longer than ordinarily required for someone with the appellant's physical needs (Testimony; Exhibit 6, p. 16). The MassHealth representative stated that according to the documentation submitted by the appellant's PCM agency, the PCA assists with washing, rinsing, and drying off the appellant's body and hair (Testimony, Exhibit 6, p. 17). Additionally, the documentation submitted indicates the following: the appellant has poor insight and judgment, poor safety awareness, lack of ability to initiate sequence or follow through with tasks due to autism. The appellant does not have the cognitive ability to recognize the importance of hygiene or self-care, nor is he willing to participate

in showering due to limited receptive language and inability to complete tasks thoroughly, even with instruction. *Id.* The MassHealth representative reiterated that if the appellant requires a 2-person assist, the family member would be the second person to assist the appellant with bathing.

The appellant's parents explained that bathing is one of the toughest tasks for the appellant. They testified that it is a lengthy process to get the appellant in and out of the shower as it is dependent on how the day is going for him. On occasion, the appellant does not resist showering. Conversely, if the appellant is not having a good day, it is very difficult to bathe him even with two people assisting him. The appellant's father reiterated that he is just asking for the time that the PCM agency and the appellant's pediatrician recommended, he is not asking for additional time.

The fourth modification made was in the "Grooming" (nail care) category. MassHealth modified the requested amount of 5 minutes per week to 0 minutes per week for both school and vacation weeks because the time requested for assistance with nail care is a parental responsibility in accordance with the pertinent regulations (Testimony; Exhibit 6, p. 18). The appellant's father explained that the appellant's nail care is very difficult due to the appellant's screaming because of the noise that the nail clippers make. As such, the appellant requires a 2-person assist, because one person is needed to distract him while another is cutting his nails. Generally, the entire process of the appellant's nail care takes approximately 45 minutes to perform. The MassHealth representative inquired what the PCA would be doing during this process. The appellant's parents explained that the PCA would distract the appellant so that he does not become upset and afraid or the PCA would hold him because he tends to kick when his nails are being cut. The MassHealth representative explained that the PCA cannot restrain or distract the appellant. However, the PCA can perform the task of cutting nails. The appellant's mother stated that she would prefer that the PCA cut the appellant's nails. The MassHealth representative agreed to restore the requested 5 minutes per week in this category, thereby resolving this modification.

The fifth modification made was in the "Dressing" category. MassHealth modified the requested time of 20 minutes, 1 time per day, 7 days per week, to 10 minutes, 1 time per day, 7 days per week for school and vacation weeks because the time requested for dressing is longer than ordinarily required for someone with the appellant's physical needs (Testimony; Exhibit 6, p. 20). The documentation submitted by the PCM agency states that the PCA assists with gathering all items for dressing and undressing, all garments, secures all fasteners, buttons and zippers and ties, don/doff all socks and footwear due to the appellant's poor balance, safety awareness, and cognitive issues. The appellant does not participate in dressing or undressing. *Id.* The MassHealth representative stated that due to the appellant's age, one of his parents would presumably decide what clothing he would wear. Next, she inquired what the PCA would be doing for the requested time of 20 minutes to assist dressing the appellant. The appellant's mother testified that the appellant will remove certain articles of clothing if he does not wish to wear a certain pair of pants or shoes, for example. Moreover, when the pants or shoes are put back on the appellant, he will continue to take them off if he does not like what pants or shoes he is wearing. This may occur approximately 5-6 times per day. The appellant can pull down his pants and remove his shoes

independently but needs assistance with all other items of clothing. The MassHealth representative inquired whether the appellant wears braces or otherwise when he is dressed. The appellant's mother explained that the appellant wears a safety harness each morning that goes on top of his clothing and a zipper is located on the back of the harness so that the appellant cannot remove it on his way to school. The placement of the appellant's safety harness takes approximately 5-6 minutes to complete and typically begins close to when the appellant's school bus arrives. The MassHealth representative agreed to increase the modification from 10 minutes to 15 minutes, 1 time per day, 7 days per week. The appellant's parents accepted, thereby resolving this modification.

The sixth modification made was in the "Undressing" category. MassHealth modified the requested amount of 15 minutes, 1 time per day, 7 days per week to 8 minutes, 1 time per day, 7 days per week for school and vacation weeks because the time requested for undressing is longer than ordinarily required for someone with the appellant's physical needs. *Id.* The MassHealth representative testified that according to the appellant's parents, it appeared that the appellant can partially undress himself on his own terms. The appellant's parents stated that the appellant must be changed 2-3 times per day because he does not like to wear dirty clothing and his clothing can become messy when he is eating. Further, while the task of undressing the appellant is easier in the summer season, it is challenging during the winter season because the appellant is unable to fully remove his pants and he is unable to remove a hooded sweatshirt independently. The MassHealth representative offered to increase the modification from 8 minutes per day to 10 minutes per day. The appellant's parents indicated that they would accept 12 minutes per day, which the MassHealth representative declined.

The seventh modification made was in the "Toileting" (bowel care) category. MassHealth modified the requested amount of 15 minutes, 1 time per day, 7 days per week, to 7 minutes, 1 time per day, 7 days per week for school and vacation weeks because the time requested for bowel care is longer than ordinarily required for someone with the appellant's physical needs (Testimony, Exhibit 6, p. 22). The PCA assists with toileting, hygiene, and brief changes frequently throughout the day to prevent breakdown, using incontinence products related to autism because he is unable to recognize or communicate needing to go to the bathroom. *Id.* The appellant's parents explained that the appellant wears a Pull-Up 24 hours per day because he will not use the toilet and drinks excessively, resulting in the need for a Pull-Up change at least 8-10 times per day. Further, the appellant excretes feces approximately 2-3 times per day. If the appellant's parents do not immediately change his Pull-Up thereafter, the appellant will place his hands into his Pull-Up and becomes covered in feces. This results in the need to bathe the appellant again to clean him and to change his Pull-Up. The appellant is unable to change his pull up independently. The MassHealth representative agreed to restore the requested 15 minutes per day, 7 days per week, thereby resolving this modification.

Findings of Fact

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

1. The appellant is a non-verbal minor child and a MassHealth member.
2. The appellant's medical diagnoses include autism, global developmental delay, and impaired coordination.
3. Independence Associates, Inc., a PCM agency, submitted a re-evaluation request to MassHealth on the appellant's behalf on February 12, 2024, seeking the following: 21 hours and 0 minutes of day/evening PCA assistance per week for 40.28 school weeks, and 24 hours and 30 minutes of day/evening PCA assistance per week for 12 vacation weeks.
4. By notice dated February 27, 2024, MassHealth modified the requested PCA assistance time to: 13 hours and 0 minutes of day/evening PCA assistance per week for 40.28 school weeks, and 15 hours, 0 minutes of day/evening PCA assistance per week for 12 vacation weeks.
5. The PA request at issue covers the time period of February 27, 2024 through February 26, 2025.
6. The appellant requested time for assistance with mobility, as follows: 5 minutes per day, 2 times per day, 5 days per week and 5 minutes, 6 times per day, 7 days per week for 40.28 school weeks, and 5 minutes, 6 times per day, 7 days per week for 12 vacation weeks.
7. MassHealth modified the requested PCA assistance time for mobility to 1 minute, 2 times per day, seven days per week for 40.28 school weeks and 1 minutes, 6 times per day, 2 days per week for 12 vacation weeks.
8. At the hearing, MassHealth offered to increase the time for assistance with this task to 2 minutes per occasion.
9. The appellant has difficulty mobilizing with assistance, due to his size and resistance.
10. The PCA program does not cover prompting, guiding, coaxing, or time spent waiting for the appellant to move.
11. The appellant requested time for assistance with stairs, as follows: 5 minutes, 2 times per day, 7 days per week for both school and vacation weeks.
12. MassHealth modified the requested PCA assistance time for assisting with the appellant with stairs to 2 minutes, 2 times per day, 7 days per week for both school and vacation weeks.

13. At the hearing, MassHealth offered to increase the time for assistance with this task to 3 minutes per occasion.
14. The appellant has difficulty using stairs and requires placing both feet on each step, and occasionally using a handrail due to his unsteadiness.
15. The appellant requested time for assistance with bathing, as follows: 45 minutes, each day, for both school and vacation weeks.
16. MassHealth modified the requested time in this category to 25 minutes, each day, for both school and vacation weeks.
17. Bathing the appellant is difficult and the assistance required is dependent on how his day is going.
18. The appellant requested time for assistance with nail care, as follows: 5 minutes per week for both school and vacation weeks.
19. MassHealth modified the requested time in this category to 0 minutes per week for both school and vacation weeks.
20. At hearing, MassHealth agreed to restore the 5 minutes per week of PCA assistance for nail care; this adjustment was accepted by the appellant's representatives.
21. The appellant requested time for assistance with dressing, as follows: 20 minutes, 1 time per day, 7 days per week for both school and vacation weeks.
22. MassHealth modified the requested time in this category to 10 minutes, 1 time per day, 7 days per week, for both school and vacation weeks.
23. At hearing, MassHealth agreed to authorize an additional 5 minutes, time per day, 7 days per week for both school and vacation weeks, for a total of 15 minutes, 1 time per day, 7 days per week; this adjustment was accepted by the appellant's representatives.
24. The appellant requested time for assistance with undressing as follows: 15 minutes, 1 time per day, 7 days per week for both school and vacation weeks.
25. MassHealth modified the requested time in this category to 8 minutes, 1 time per day, 7 days per week, for both school and vacation weeks.

26. At the hearing, MassHealth offered to increase the time for assistance with this task to 10 minutes per occasion.
27. The appellant can partially undress himself though he requires frequent changing of outfits because he does not like his clothes dirty and tends to get food on his clothing while eating. The appellant is unable to remove heavy articles of clothing such as hooded sweatshirts independently.
28. The appellant requested time for assistance with bowel care, as follows: 15 minutes, 1 time per day, 7 days per week for both school and vacation weeks.
29. MassHealth modified the requested time in this category to 7 minutes, 1 time per day, 7 days per week, for both school and vacation weeks.
30. At hearing, MassHealth agreed to restore the required 15 minutes, once per day, 7 days per week of PCA assistance for bowel care; this adjustment was accepted by the appellant's representatives.

Analysis and Conclusions of Law

MassHealth regulations about PCA services are found at 130 CMR 422.000 et seq. Regulation 130 CMR 422.402 defines a PCA as a person who is hired by the member or surrogate to provide PCA services, which are further defined as assistance with the activities of daily living (ADLs) and instrumental activities of daily living (IADLs) as described in 130 CMR 422.410.

Pursuant to 130 CMR 422.403(C), MassHealth covers PCA services when: (1) they are prescribed by a physician; (2) the member's disability is permanent or chronic in nature; (3) the member 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; and (4) MassHealth has determined that the PCA services are medically necessary and has granted a prior authorization for PCA services.

Activities of daily living are listed at 130 CMR 422.410(A) and include mobility, assistance with medications or other health-related needs, bathing/grooming, dressing and undressing, passive range-of-motion exercises, eating, and toileting (including bowel care and bladder care). MassHealth pays for PCA time in physically assisting members to perform the aforementioned activities of daily living.

Instrumental activities of daily living are those activities described in 130 CMR 422.410(B) that are instrumental to the care of the member's health and are performed by a PCA, such as meal preparation and clean-up, housekeeping, laundry, shopping, maintenance of medical

equipment, transportation to medical providers, and completion of paperwork required for the member to receive personal care services. MassHealth pays for PCA time in physically assisting members to perform the instrumental activities of daily living (130 CMR 422.402).

Pursuant to 130 CMR 422.410(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.

Further, pursuant to 130 CMR 422.412, "Non-Covered 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, or a resident of a provider-operated residential facility subject to state licensure, such as a group home

(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;

(G) surrogates, as defined in 130 CMR 422.402; or

(H) PCA services provided to a member without the use of EVV as required by the MassHealth agency.

Pursuant to 130 CMR 450.204(A), MassHealth will not pay a provider for services that are not medically necessary; and may impose sanctions on a provider for providing or prescribing a service or for admitting a member to an inpatient facility where such service or admission is not medically necessary. 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 MassHealth. Services that are less costly to MassHealth include, but are not limited to, health care reasonably known by the provider, or identified by MassHealth pursuant to a prior authorization request, to be available to the member through sources described in 130 CMR 450.317(C), 503.007, or 517.007.

At issue in this appeal were modifications of time requested for PCA assistance for the appellant with the following ADLs: mobility, stairs, bathing, grooming (nail care), dressing, undressing, and toileting (bowel care).

At hearing, MassHealth agreed to authorize the following amounts of PCA assistance:

Grooming (nail care): 5 minutes per week for both school and vacation weeks;

Dressing: 15 minutes once per day, 7 days per week for both school and vacation weeks;

Toileting (bowel care): 15 minutes once per day, 7 days per week for both school and vacation weeks.

The appellant's representatives agreed to these amounts of PCA assistance. Therefore, these portions of the appeal are DISMISSED.

Mobility

The appellant requested 5 minutes of assistance, 2 times per day, 5 days per week and 5 minutes, 6 times per day, 2 days per week for 40.28 school weeks, and 5 minutes, 6 times per day, 7 days per week for 12 vacation weeks. MassHealth modified the request to 1 minute, 2 times per day, 5 days per week and 1 minute, 6 times per day, 2 days per week for 40.28 school weeks, and 1 minute, 6 times per day, 7 days per week for 12 vacation weeks. At hearing, MassHealth agreed to increase the time per occasion to 2 minutes. The appellant's parents disagreed with this modification, arguing that it takes 5 minutes for the appellant in this category because he cannot

be carried due to his size, strength, and resists movement at times. The record does not sufficiently support the appellant's position. The documentation submitted on behalf of the appellant states that he requires minimal assistance and does not use any assistive devices to mobilize. The appellant's parents clarified at hearing that two people are required to assist with this task. The PCA would be the second person to assist the parent. This team approach should help to streamline the process. While the appellant undoubtedly requires assistance due to his resistance to move at times, as the MassHealth representative noted at hearing, the PCA program only covers the time for actual hands-on assist. Behavior management tasks such as waiting, cueing, and redirecting are not covered services. MassHealth has provided adequate support for its determination here, and this portion of the appeal is DENIED.

Stairs

The appellant requested 5 minutes of assistance, 2 times per day, 7 days per week, for both school and vacation weeks. MassHealth modified the request to 2 minutes, 2 times per day, 7 days per week for both school and vacation weeks, and at hearing agreed to increase the time per occasion to 3 minutes. The appellant's parents disagreed with this modification, arguing that the appellant requires 5 minutes of assistance in this category because he requires guidance and frequently stops in between taking steps. The record does not fully support the appellant's position that it takes 5 minutes for the appellant to use the stairs. The documentation submitted on behalf of the appellant indicates that he was assessed as a minimal assist by the PCM agency. (See, Exhibit 6, p. 13). Said documentation further indicates that the appellant resides in a 2-story home, with his bedroom located on the second floor, and that the appellant can manage stairs (See, Exhibit 6, pp. 7, 14). While there is no question that the appellant requires guidance due to his unsteadiness, the appellant's representatives acknowledged at hearing that the appellant uses a handrail on occasion and that two people assist him with this task. This would be comprised of one parent and the PCA. Additionally, as the MassHealth representative explained at hearing, the PCA program only covers the time for actual hands-on assist and the PCA is not compensated for wait time. MassHealth has provided adequate support for its determination here, and this portion of the appeal is DENIED.

Bathing

The appellant requested 45 minutes of assistance, each day, 7 days per week, for both school and vacation weeks. MassHealth modified the request to 25 minutes each day, 7 days per week, for both school and vacation weeks. The appellant's representatives argued that bathing is difficult, and the amount of assistance required depends on how his day is going. If he resists care, the task takes longer. While this testimony is certainly credible, it does not support the argument that the appellant consistently needs 45 minutes of PCA assistance to complete the task of bathing. The record does not support the appellant's position that it takes longer than 25 minutes each day to bathe the appellant. MassHealth has provided adequate support for its determination here, and this portion of the appeal is DENIED.

Undressing

The appellant requested 15 minutes of assistance, 1 time per day, 7 days per week, for both school and vacation weeks. MassHealth modified the request to 8 minutes each day, 7 days per week, for both school and vacation weeks. At hearing, MassHealth agreed to increase the time per occasion to 10 minutes. MassHealth modified the request on the basis that the time requested for undressing is longer than ordinarily required for someone with the appellant's physical needs. The appellant, however, is a minor child and is incapable of independently removing all articles of clothing. I conclude that in this circumstance, the time requested is appropriate for the appellant because of his physical needs. The appellant's representatives stated at hearing that the appellant is not able to independently remove most articles of clothing such as hooded sweatshirts, shirts, socks, or even pants completely. MassHealth's PCA program specifically includes assistance with dressing and undressing as a covered task, and in this instance, the appellant has demonstrated that the requested amount of 15 minutes of assistance with this task, each day, is warranted. This portion of the appeal is APPROVED.

For these reasons, this appeal is dismissed in part, approved in part, and denied in part.

Order for MassHealth

For the PA period for dates of service February 27, 2024 through February 26, 2025: (1) approve the appellant's request in full for the following: grooming (nail care) at 5 minutes per week and toileting (bowel care) at 15 minutes, 1 time per day, 7 days per week for both school and vacation weeks as agreed to at the hearing; (2) approve the appellant's request in full for undressing at 15 minutes, 1 time per day, 7 days per week for both school and vacation weeks; (3) increase time for mobility to 2 minutes per occasion and time for assistance with stairs to 3 minutes per occasion as agreed to at the hearing; and (4) notify appellant of updated authorized PCA hours accordingly.

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.

Implementation of this Decision

If this decision is not implemented within 30 days after the date of this decision, you should contact Optum. If you experience problems with the implementation of 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.

Kimberly Scanlon
Hearing Officer
Board of Hearings

cc:

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