

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2403637
Decision Date:	6/6/2024	Hearing Date:	04/12/2024
Hearing Officer:	Emily Sabo		

Appearances for Appellant:



Appearance for MassHealth:

Donna Burns, RN, Optum



*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 (PCA) Services
Decision Date:	6/6/2024	Hearing Date:	04/12/2024
MassHealth's Rep.:	Donna Burns, RN	Appellant's Rep.:	Pro se & Sister/Surrogate
Hearing Location:	Quincy Harbor South (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

By notice dated February 12, 2024, MassHealth denied Appellant's request for prior authorization of personal care attendant (PCA) services. Exhibit 1 and *see* 130 CMR 450.303. Appellant filed this timely appeal on March 11, 2024. Exhibit 2 and 130 CMR 610.015(B). Denial of prior authorization is a valid basis for appeal. 130 CMR 422.417(B)(2) and 130 CMR 610.032.

Action Taken by MassHealth

MassHealth denied Appellant's request for prior authorization of PCA services.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 422.412 and 130 CMR 450.204, in denying Appellant's prior authorization request for PCA services.

Summary of Evidence

The hearing was held by telephone. A registered nurse and clinical appeals reviewer represented MassHealth at hearing and submitted records in support. Exhibit 5. The Appellant appeared at the hearing with her sister/surrogate, and they verified the Appellant's identity. The Appellant also submitted a note from her doctor. Exhibit 6.

A summary of testimony and record evidence follows: The Appellant is an adult between the ages of [REDACTED] and [REDACTED] and is a MassHealth Standard member. The Appellant's medical history includes bipolar disorder, diabetes, hypertension and Sjogren's Syndrome. Exhibit 5 at 9.

The Appellant's personal care management agency is [REDACTED], and on the Appellant's behalf, they submitted an initial prior authorization request for PCA services for the start date of January 22, 2024, and end date of January 21, 2025. On February 12, 2024, MassHealth denied the request because the documentation does not support that the Appellant has "a chronic disabling condition that requires hands on assist with two" activities of daily living. *Id.* at 4.

[REDACTED] requested assistance for activities of daily living in the following categories:¹

Activity	Day (6 AM-12 AM) or Night (12 AM -6 AM)	Time per week
Mobility	Night	4 minutes
Bathing	Day	185 minutes
Grooming	Day	44 minutes
Dressing/Undressing	Day	77 minutes
Toileting	Night	20 minutes
Medication Assistance	Day	24 minutes

The Appellant also submitted a note from her doctor, dated April 1, 2024, which states: Appellant

is a patient under my care who requires assistance with at least 2 ADL's. [Appellant] is incontinent of urine and has limited ROM and requires assistance with bathing especially from the waist down. [Appellant] also requires assistance with medication management due to bipolar disorder. Please supply her with PCA services to assist with these ADL's. Thank you.

Exhibit 6.

¹ Exhibit 5 includes a letter dated January 22, 2024, from a [REDACTED] representative that Appellant is "currently receiving 5.25hrs/week of homemaking through MRC/Home Care Assistance Program Service will be terminated upon PA approval." Exhibit 5 at 52.

The MassHealth representative testified that MassHealth's regulations do not cover PCA services for assistance provided in the form of cueing, prompting, supervision, guiding and/or coaching. Rather, MassHealth covers PCA services for hands-on care. The documentation submitted with this request stated that Appellant has "depression with low motivation for task initiation and completion." Exhibit 5 at 40. The MassHealth representative testified that the Appellant's clinical record does not support the Appellant needing physical assistance with two or more activities of daily living. The MassHealth representative testified that the Appellant is independent or needs minimal assistance for most activities of daily living. *Id.* at 5-6. The Appellant is independent for mobility, eating, passive range of motion, other healthcare needs, and transfers including in and out of bed, in and out of tub/shower, and on and off the toilet. *Id.* The Appellant needs minimal assistance with toileting, dressing, and medication administration. *Id.* at 6. The only activities of daily living in which the Appellant needs moderate assistance are bathing and grooming. *Id.* at 5.

The MassHealth representative explained that the Appellant could use adaptive devices and other less costly methods to address her needs, such as a long-handled sponge, shower chair, or absorbent products for nighttime incontinence. The MassHealth representative testified that the Appellant could also use visiting nurse services to address her medication issues.² The MassHealth representative also explained that MassHealth does not cover services outside the home, such as a past incident in which the Appellant had fallen while walking outside. The MassHealth representative recommended that the Appellant receive occupational therapy assistance with adaptive devices.

The Appellant's sister primarily testified on her behalf and testified as follows: The Appellant has a history of falling, including falling out of the bed. The Appellant is incontinent and has difficulties understanding due to her bipolar disorder. The Appellant has had many accidents and surgeries. The Appellant has fallen getting in and out of the shower. The Appellant needs assistance and it is unfair that the request for PCA services was denied.

Findings of Fact

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

1. [REDACTED] submitted an initial evaluation for PCA services on behalf of the Appellant, for the period of January 22, 2024, to January 21, 2025, requesting 12.75 day hours and 14 night hours per week of PCA services on Appellant's behalf. Testimony, Exhibit 1, Exhibit 5 at 29.
2. On February 12, 2024, MassHealth denied the request because the clinical record indicated

² [REDACTED] nurse evaluator stated that the Appellant "also refuses to self administer insulin or use glucomet[er] as she has a fear of needles." Exhibit 5 at 40.

that the Appellant does not require physical assistance with two or more activities of daily living. Testimony, Exhibit 1.

3. The Appellant filed a timely appeal on March 11, 2024. Exhibit 2.
4. The Appellant is an adult between the ages of ■ and ■ and is a MassHealth Standard member. Exhibit 4.
5. The Appellant's medical history includes bipolar disorder, diabetes, hypertension and Sjogren's Syndrome. Testimony, Exhibit 5 at 9.
6. Coastline Elder Services requested assistance for activities of daily living in the following categories:

Activity	Day (6 AM-12 AM) or Night (12 AM -6 AM)	Time per week
Mobility	Night	4 minutes
Bathing	Day	185 minutes
Grooming	Day	44 minutes
Dressing/Undressing	Day	77 minutes
Toileting	Night	20 minutes
Medication Assistance	Day	24 minutes

Exhibit 5 at 12-29.

7. The Appellant is independent for mobility, eating, passive range of motion, other healthcare needs, and transfers including in and out of bed, in and out of tub/shower, and on and off the toilet. The Appellant needs minimal assistance with toileting, dressing, and medication administration. The Appellant needs moderate assistance with bathing and grooming. Testimony, Exhibit 5 at 5-6, 31.
8. During the initial evaluation for PCA services, the nurse evaluator for ■ noted that the Appellant has "depression with low motivation for task initiation and completion . . . [and] also refuses to self administer insulin or use glucomet[er] as she has a fear of needles." Exhibit 5 at 40.
9. The Appellant currently receives 5.25hrs/week of homemaking through the MRC/Home Care Assistance Program. Exhibit 5 at 52.
10. In the comments section of the requested activities of daily living, ■ indicated that the Appellant is independent but requires supervision and cues. Exhibit 5 at 12-23.

Analysis and Conclusions of Law

Pursuant to 130 CMR 422.403(C), MassHealth will pay for PCA services for members appropriately cared for at home when 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.

Pursuant to 130 CMR 450.204(A), 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, or 517.007.

MassHealth covers assistance with the following tasks under the PCA program:

422.410: Activities of Daily Living and Instrumental Activities of Daily Living

(A) Activities of Daily Living (ADLs). Activities of daily living include the following categories of activities. Any number of activities within one category of activity is counted as one ADL:

- (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.

(B) Instrumental Activities of Daily Living (IADLs). Instrumental activities of daily living include the following:

(1) household services: physically assisting with household management tasks that are incidental to the care of the member, including laundry, shopping, and housekeeping;

(2) meal preparation and clean-up: physically assisting a member to prepare meals;

(3) transportation: accompanying the member to medical providers; and

(4) special needs: assisting the member with:

(a) the care and maintenance of wheelchairs and adaptive devices;

(b) completing the paperwork required for receiving PCA services; and

(c) other special needs approved by the MassHealth agency as being instrumental to the health care of the member.

The MassHealth regulations at 130 CMR 422.412 provide:

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.

Here, MassHealth denied Appellant's request because it determined Appellant does not require physical assistance with two or more activities of daily livings. The evidence supports that the Appellant is independent for mobility, eating, passive range of motion, other healthcare needs, and transfers including in and out of bed, in and out of tub/shower, and on and off the toilet. The Appellant needs minimal assistance with toileting, dressing, and medication administration. The Appellant needs moderate assistance with bathing and grooming, which are considered as a singular category under 130 CMR 422.410(A)(3). The record shows that the Appellant needs little physical assistance. Exhibit 5. The assistance that the Appellant needs regarding task initiation and completion is not covered as part of the PCA program. 130 CMR 422.412(C). I also credit the MassHealth representative's testimony that there are other more conservative or less costly options available to assist the Appellant, such as adaptive devices.³

As the Appellant does not require physical assistance with two or more activities of daily living, MassHealth correctly determined that the Appellant does not meet the regulatory requirements for PCA services. Accordingly, the 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.

³ As discussed at the hearing, the Appellant may be interested in setting up an appointment with an occupational therapist to determine if there are adaptive devices that would help her. Though not discussed at hearing, the Appellant and her family may want to explore the Adult Foster Care program, where services may include supervision and cueing of at least one activity of daily living. See 130 CMR 408.416(B).

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 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.

Emily Sabo
Hearing Officer
Board of Hearings

cc:

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