

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2407629
Decision Date:	7/22/2024	Hearing Date:	6/21/24
Hearing Officer:	Patrick Grogan	Record Open to:	N/A

Appearance for Appellant:



Appearance for MassHealth:

Donna Burns, RN, Optum

Interpreter:

N/A



*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:	Approved	Issue:	Prior Approval, PCA Services
Decision Date:	7/22/2024	Hearing Date:	6/21/24
MassHealth's Rep.:	Donna Burns	Appellant's Rep.:	
Hearing Location:	Remote (Tel)	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 April 17, 2024, MassHealth modified the Appellant's prior authorization for personal care attendant (PCA) services because MassHealth determined that the Appellant's request for PCA services indicated that some of the services for Activities of Daily Living (ADLs) and Instrumental Activities of Daily Living (IADLs) requested are services provided by family members and that some of the times requested are longer than ordinarily required for someone with the Appellant's physical needs. (See 130 CMR 422.412(F), 130 CMR 422.410(A)(1), 130 CMR 422.410(A)(3), 130 CMR 422.410(A)(7), 130 CMR 422.410(B)(3), 130 CMR 450.204(A)(1) and Exhibit 1). The Appellant filed this appeal in a timely manner on May 13, 2024. (see 130 CMR 610.015(B)). A decision modifying assistance is valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth modified the Appellant's prior authorization for personal care attendant (PCA) services because MassHealth determined that the Appellant's request for PCA services indicated that some of the services requested are services provided by family members and that some of the times requested are longer than ordinarily required for someone with the Appellant's physical needs. (See 130 CMR 422.412(F), 130 CMR 422.410(A)(1), 130 CMR 422.410(A)(3), 130 CMR 422.410(A)(7), 130 CMR 422.410(B)(3), 130 CMR 450.204(A)(1) and Exhibit 1)

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 422.412(F), 130 CMR 422.410(A)(1), 130 CMR 422.410(A)(3), 130 CMR 422.410(A)(7), 130 CMR 422.410(B)(3), and 130 CMR 450.204(A)(1) in determining that the Appellant's request for PCA services indicated that some of the services requested are services provided by family members and that some of the times requested are longer than ordinarily required for someone with the Appellant's physical needs.

Summary of Evidence

The Appellant is a MassHealth member under the age of 18 who seeks prior approval for PCA services. (Testimony, Exhibit 1, Exhibit 5). MassHealth received a prior authorization request for PCA services submitted by [REDACTED] the Appellant's Personal Care Management (PCM) Agency. (Testimony, Exhibit 1) The Appellant's primary diagnosis includes Autism. (Testimony, Exhibit 5, pg. 7) The Appellant's medical history includes cognitive limitations, tactile/texture sensitivities, inability to sequence, severe behavioral issues, resistant behaviors, frequent temper tantrums, head banging, attempted elopements, no safety awareness with high risk behaviors requiring constant supervision for safety. (Testimony, Exhibit 5, pg. 7) Additionally, it is noted the Appellant exhibits thrashing behavior, flailing arms and legs, pulls away, and attempts biting of the Appellant as well as others. (Exhibit 5, pg. 12) The Appellant also displays escape behavior, and the Appellant's Mother often fits the Appellant with a GPS. (Testimony)

MassHealth, represented by a nurse from Optum, testified that MassHealth modified the Appellant's prior authorization for personal care attendant (PCA) services because MassHealth determined that the Appellant's request for PCA services indicated that some of the services requested are services provided by family members and that some of the times requested are longer than ordinarily required for someone with the Appellant's physical needs. (See 130 CMR 422.412(F), 130 CMR 422.410(A)(1), 130 CMR 422.410(A)(3), 130 CMR 422.410(A)(7), 130 CMR 422.410(B)(3), 130 CMR 450.204(A)(1) and Exhibit 1) Specifically, MassHealth made multiple modifications discussed infra. (Testimony)

Regarding the modification of 1) ADL – Mobility, Transfers (school), from 10 minutes, 1 time a day, 5 days a week, to 5 minutes, 1 time a day, 5 days a week, (Exhibit 5, pgs. 11-12) MassHealth testified that the requested time exceeded the time ordinarily required for someone with the Appellant's physical needs for physical assistance with Mobility, Transfers (school) and the times requested are services generally provided by family members. The Appellant, through his representative, Mother, explained the difficulties in aiding the Appellant during transfers. The Appellant's Mother testified that the Appellant continuously exhibits unsafe behaviors and does not exhibit any safety awareness. (Testimony) The Appellant resists both

verbal and physical attempts to aid him, attempts to place objects in his mouth, thrashes, exhibits head banging behavior, and is very strong. The Appellant's Mother explained that she, a nurse, usually attends to the Appellant's disruptive and violent behaviors herself. The Appellant's Mother described the strength exhibited by the Appellant and clarified that she requires assistance when dealing with the Appellant's violent behaviors. (Testimony) The Appellant's father, a police officer, works nearly every day, often picks up additional shifts to earn additional income, and is often unavailable to aid the Mother. The Appellant's Mother attempts to enlist aid from the Appellant's elderly Grandmother whenever she may be available. Additionally, the Appellant's Mother testified that the Appellant's older siblings often are enlisted to help with the Appellant's unsafe and violent behaviors. The Appellant's Mother highlighted her concern of the impact of the violent and unsafe episodes on the Appellant's siblings. The Appellant's Mother explained that she hopes the frequency and violence of the episodes will dissipate with time, but she currently requires all the help she can receive to continue to attempt to keep the Appellant, and others, safe from his own defiant and resistance behaviors. (Testimony) No resolution was reached between the parties regarding this modification.

Regarding the modification of 2) ADL – Bathing, Special Transfers, from 5 minutes, 1 time a day, 7 days a week, to 0 minutes, 0 times a day, 0 days a week, (Exhibit 5, pgs. 14-15) MassHealth testified that the requested time exceeded the time ordinarily required for someone with the Appellant's physical needs for physical assistance with Bathing, Special Transfers and the times requested are services generally provided by family members. The Appellant, through his representative, Mother, explained the difficulties in aiding the Appellant during bathing. The Appellant's Mother testified that the Appellant continuously exhibits unsafe behaviors and does not exhibit any safety awareness. The Appellant resists both verbal and physical attempts to aid him, attempts to place objects in his mouth, thrashes, exhibits head banging behavior, and is very strong. The Appellant's Mother explained that she hopes the frequency and violence of the episodes will dissipate with time, but currently requires all the help she can receive to continue to attempt to keep the Appellant, and others, safe from his own defiant and resistance behaviors. The Appellant's mother expounded about the additional difficulties when the Appellant is wet and around water while bathing. (Testimony) No resolution was reached between the parties regarding this modification.

Regarding the modification of 3) ADL – Toileting, Special Transfers, from 5 minutes, 6 times a day, 2 days a week, to 0 minutes, 0 times a day, 0 days a week, and Toileting, Special Transfers, from 5 minutes, 4 times a day, 5 days a week, to 0 minutes, 0 times a day, 0 days a week, (Exhibit 5, pgs. 20-21) MassHealth testified that the requested time exceeded the time ordinarily required for someone with the Appellant's physical needs for physical assistance with Toileting, Special Transfers for bladder and bowel care and the times requested are services generally provided by family members. The Appellant, through his representative, Mother, explained the difficulties in aiding the Appellant during toileting. The Appellant's Mother testified that the Appellant continuously exhibits unsafe behaviors and does not exhibit any safety awareness. The Appellant resists both verbal and physical attempts to aid him, attempts to place

objects in his mouth, thrashes, exhibits head banging behavior, and is very strong. The Appellant's Mother explained that she hopes the frequency and violence of the episodes will dissipate with time, but currently requires all the help she can receive to continue to attempt to keep the Appellant, and others, safe from his own defiant and resistance behaviors. The Appellant's mother expounded about the additional difficulties while the Appellant is toilet training. The Appellant's Mother testified, in detail, regarding the difficulties with toilet training, and the problems created when the Appellant produces accidental evacuations of his bladder and bowels. (Testimony) The Mother stated that most programs will not accept the Appellant if he is incontinent. (Testimony) Optum responded that toilet training was the responsibility of the parent. (Testimony) No resolution was reached between the parties regarding this modification.

Regarding the modification of 4) IADL – Medical Transportation, 7 appointments a year, total, for a neurologist, 3 times per year, 5 minutes per assist and a pediatrician, 4 times a year, 6 minutes per assist for a total average of 11 minutes per week requested, which MassHealth modified to a total average of 3 minutes per week. (Exhibit 5, pg. 31) MassHealth testified that the requested time exceeded the time ordinarily required for someone with the Appellant's physical needs for physical assistance with Medical Transportation and the times requested are services generally provided by family members. The Appellant, through his representative, Mother, explained the difficulties in aiding the Appellant during transportation to medical appointments. The Appellant's Mother testified that the Appellant continuously exhibits unsafe behaviors and does not exhibit any safety awareness. The Appellant resists both verbal and physical attempts to aid him, attempts to place objects in his mouth, thrashes, exhibits head banging behavior, and is very strong. The Appellant's Mother explained that she hopes the frequency and violence of the episodes will dissipate with time, but currently requires all the help she can receive to continue to attempt to keep the Appellant, and others, safe from his own defiant and resistance behaviors. The Appellant's mother expounded about the additional difficulties while attempting to transport the Appellant to his myriad of medical appointments. Optum explained that the allotted time only included time for placing the Appellant within the vehicle for transport to the medical appointments. (Testimony) The Appellant's mother explained that there are multiple additional appointments not included in the submissions for the requested PCA hours. No resolution was reached between the parties regarding this modification.

At Hearing, it was noted that a letter from the Appellant's physician was missing from the submissions. By agreement of the Parties, the missing letter was allowed to be submitted after the Hearing. The letter was never received, although the Appellant's Mother did testify that the letter highlights the behaviors of the Appellant. No resolution was reached on any of the Modifications and the Modifications are addressed supra.

Findings of Fact

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

1. The Appellant is a MassHealth member under the age of 21 who seeks prior approval for PCA services. (Testimony, Exhibit 1, Exhibit 5).
2. The Appellant's primary diagnosis includes Autism. (Testimony, Exhibit 5, pg. 7)
3. The Appellant's medical history includes cognitive limitations, tactile/texture sensitivities, inability to sequence, severe behavioral issues, resistant behaviors, frequent temper tantrums, head banging, attempted elopements, no safety awareness with high-risk behaviors, requiring constant supervision for safety. (Testimony, Exhibit 5, pg. 7)
4. The Appellant exhibits thrashing behavior, flailing arms and legs, pulls away, and attempts biting of the Appellant as well as others. (Exhibit 5, pg. 12)
5. Regarding the modification of 1) ADL – Mobility, Transfers (school), from 10 minutes, 1 time a day, 5 days a week, to 5 minutes, 1 time a day, 5 days a week, MassHealth testified that the requested time exceeded the time ordinarily required for someone with the Appellant's physical needs for physical assistance with Mobility, Transfers (school) and the times requested are services generally provided by family members.
6. The Appellant, through his representative, Mother, explained the difficulties in aiding the Appellant during transfers. The Appellant's Mother testified that the Appellant continuously exhibits unsafe behaviors and does not exhibit any safety awareness. The Appellant resists both verbal and physical attempts to aid him, attempts to place objects in his mouth, thrashes, exhibits head banging behavior, and is very strong.
7. The Appellant's Mother explained that she, a nurse, usually attends to the Appellant's disruptive and violent behaviors herself. The Appellant's Mother described the strength exhibited by the Appellant and clarified that she requires assistance when dealing with the Appellant's violent behaviors. The Appellant's father, a police officer, works nearly every day, often picks up additional shifts to earn additional income, and is often unavailable to aid the Mother. The Appellant's Mother attempts to enlist aid from the Appellant's elderly grandmother whenever she may be available. Additionally, the Appellant's Mother testified that the Appellant's older siblings often are enlisted to help with the Appellant's unsafe and violent behavior. The Appellant's Mother highlighted her concern of the impact of the violent and unsafe episodes on the Appellant's siblings. The Appellant's Mother explained that she hopes the frequency and violence of the episodes will dissipate with time, but that she currently requires all the help she can receive to continue to attempt to keep the Appellant, and others, safe from his own defiant and resistance behaviors. (Testimony)
8. The Appellant's Mother highlighted her concern of the impact of witnessing the violent and unsafe episodes on the Appellant's siblings. The Appellant's Mother explained that she hopes

the frequency and violence of the episodes will dissipate with time, but currently requires all the help she can receive to continue to attempt to keep the Appellant, and others, safe from his own defiant and resistance behaviors. (Testimony)

9. Regarding the modification of 2) ADL – Bathing, Special Transfers, from 5 minutes, 1 time a day, 7 days a week, to 0 minutes, 0 times a day, 0 days a week, MassHealth testified that the requested time exceeded the time ordinarily required for someone with the Appellant’s physical needs for physical assistance with Bathing, Special Transfers and the times requested are services generally provided by family members.
10. The Appellant, through his representative, Mother, explained the difficulties in aiding the Appellant during bathing. The Appellant’s Mother testified that the Appellant continuously exhibits unsafe behaviors and does not exhibit any safety awareness. The Appellant resists both verbal and physical attempts to aid him, attempts to place objects in his mouth, thrashes, exhibits head banging behavior, and is very strong. The Appellant’s Mother explained that she hopes the frequency and violence of the episodes will dissipate with time, but currently requires all the help she can receive to continue to attempt to keep the Appellant, and others, safe from his own defiant and resistance behaviors. The Appellant’s mother expounded about the additional difficulties while the Appellant is wet and around water while bathing. (Testimony)
11. Regarding the modification of 3) ADL – Toileting, Special Transfers, from 5 minutes, 6 times a day, 2 days a week, to 0 minutes, 0 times a day, 0 days a week, and Toileting, Special Transfers, from 5 minutes, 4 times a day, 5 days a week, to 0 minutes, 0 times a day, 0 days a week, MassHealth testified that the requested time exceeded the time ordinarily required for someone with the Appellant’s physical needs for physical assistance with Toileting, Special Transfers for bladder and bowel care and the times requested are services generally provided by family members.
12. The Appellant, through his representative, Mother, explained the difficulties in aiding the Appellant during toileting. The Appellant’s Mother testified that the Appellant continuously exhibits unsafe behaviors and does not exhibit any safety awareness. The Appellant resists both verbal and physical attempts to aid him, attempts to place objects in his mouth, thrashes, exhibits head banging behavior, and is very strong. The Appellant’s Mother explained that she hopes the frequency and violence of the episodes will dissipate with time, but currently requires all the help she can receive to continue to attempt to keep the Appellant, and others, safe from his own defiant and resistance behaviors. The Appellant’s mother expounded about the additional difficulties while the Appellant is toilet training. The Appellant’s Mother testified, in detail, regarding the difficulties with toilet training, and the problems created when the Appellant produces accidental evacuations of his bladder and bowels. (Testimony) The Mother testified that most programs will not accept the Appellant if he is incontinent. (Testimony) Optum responded that toilet training was the

responsibility of the parent. (Testimony) No resolution was reached between the parties regarding this modification.

13. Regarding the modification of 4) IADL – Medical Transportation, 7 appointments a year, total, for a neurologist, 3 times per year, 5 minutes per assist and a pediatrician, 4 times a year, 6 minutes per assist for a total average of 11 minutes per week to a total average of 3 minutes per week MassHealth testified that the requested time exceeded the time ordinarily required for someone with the Appellant's physical needs for physical assistance with Medical Transportation and the times requested are services generally provided by family members.
14. The Appellant, through his representative, Mother, explained the difficulties in aiding the Appellant during transportation to medical appointments. The Appellant's Mother testified that the Appellant continuously exhibits unsafe behaviors and does not exhibit any safety awareness. The Appellant resists both verbal and physical attempts to aid him, attempts to place objects in his mouth, thrashes, exhibits head banging behavior, and is very strong. The Appellant's Mother explained that she hopes the frequency and violence of the episodes will dissipate with time, but currently requires all the help she can receive to continue to attempt to keep the Appellant, and others, safe from his own defiant and resistance behaviors. The Appellant's mother expounded about the additional difficulties while attempting to transport the Appellant to his myriad of medical appointments.

Analysis and Conclusions of Law

Personal Care Assistant services requested must meet medical necessity criteria as defined at 130 CMR 450.204, below:

(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.

(B) 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. A provider must make those records, including medical records, available to the MassHealth agency upon request. (See 42 U.S.C. 1396a(a)(30) and 42 CFR 440.230 and 440.260.)

In addition to being medically necessary as defined above, time requested for PCA services must comport with the following guidelines at 130 CMR 422.410:

(A) Activities of Daily Living (ADLs). Activities of daily living include the following:

- (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/grooming: physically assisting a member with basic care such as bathing, personal hygiene, and grooming skills;
- (4) dressing or undressing: 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 and 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.

(C) Determining the Number of Hours of Physical Assistance. In determining the number of hours of physical assistance that a member requires under 130 CMR 422.410(B) for

IADLs, the PCM 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 PCA 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.

The Regulation regarding the requirement of needing assistance with two or more ADLs cited by MassHealth at the Hearing and in the Notice is codified in 130 CMR 422.403(C):

422.403: Eligible Members

(C) 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.

Additionally, the Regulations regarding non-covered services, such as social services, cited by MassHealth at the Hearing and in the Notice is codified in 130 CMR 422.412(A):

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.

The Appellant has the burden "to demonstrate the invalidity of the administrative determination." Andrews v. Division of Medical Assistance, 68 Mass. App. Ct. 228 (2007). See also Fisch v. Board of Registration in Med., 437 Mass. 128, 131 (2002); Faith Assembly of God of S. Dennis & Hyannis, Inc. v. State Bldg. Code Commn., 11 Mass. App. Ct. 333, 334 (1981); Haverhill Mun. Hosp. v. Commissioner of the Div. of Med. Assistance, 45 Mass. App. Ct. 386, 390 (1998).

Here, the Appellant has met his burden, by a preponderance of evidence, to show that MassHealth's administrative determination is invalid. Optum's review is based primarily upon analysis of the submissions. (Exhibit 5) Optum did not conduct an in-person review of the Appellant attempting to perform the actions for which he has requested help. Optum's analysis is limited to the submissions and review of the MassHealth Regulations. Additionally, Optum testified that most of the request were for activities with which the Appellant's parents were expected to help. However, this argument does not address that fact that the request is for aid alongside of the parent. Additionally, Optum's argument is belied by Optum's approval of some time for Mobility, Transfers. Optum approved 5 minutes, 1 time a day, 5 days a week for Mobility, Transfers (school). (Exhibit 5, pgs. 11-12)

In contrast, the request on behalf of the Appellant is based primarily on the in-person assessment the Appellant underwent (Exhibit 5). Based upon this assessment, the assessing nurse submitted the following related to ADLs and IADLs:

- 1) ADL – Mobility, Transfers (school), 10 minutes, 1 time a day, 5 days a week,
- 2) ADL – Bathing, Special Transfers, 5 minutes, 1 time a day, 7 days a week,
- 3) ADL – Toileting, Special Transfers, 5 minutes, 6 times a day, 2 days a week, and Toileting, Special Transfers, 5 minutes, 4 times a day, 5 days a week,
- 4) IADL – Medical Transportation, 7 appointments a year, total, for a neurologist, 3 times per year, 5 minutes per assist and a developmental pediatrician, 4 times a year, 6 minutes per assist for a total average of 11 minutes per week

This recommendation was based upon the in-person assessment performed by the assessing nurse. (Exhibit 5, pgs. 42-43) The recommendation was echoed within the letter of the Appellant's physician, as testified by the Mother. Moreover, the recommendation was buttressed by the testimony of the Appellant's Mother, who cares for the Appellant daily. (Testimony) The Appellant's Mother described the Appellant's physically violent and defying behavior exhibited during Transfers. (Testimony, Exhibit 5, pgs. 11-12). The Appellant's Mother explained the Appellant's unsafe behavior during Bathing and noted the difficulties presented while the Appellant is within water and wet. (Testimony, Exhibit 5, pgs. 14-15). The Appellant's Mother testified, in detail, regarding the Appellant's needs with Toileting, including the current difficulties with toilet training, and the problems created when the Appellant produces accidental evacuations of his bladder and bowels. (Testimony, Exhibit 5, pgs. 20-21)) The Appellant's Mother explained the difficulties presented by the Appellant's behavior during Medical Transportation to his various doctor appointments. (Testimony, Exhibit 5, pg. 31)

Based upon the Record in the instant appeal, including the testimony of the Appellant's Mother as well as the submissions, I find that the Appellant has met his burden, by a preponderance of evidence, to show that MassHealth's administrative determination is invalid. According, this appeal is APPROVED, as requested.

Order for MassHealth

APPROVE PCA services as requested by the Appellant:

- 1) ADL – Mobility, Transfers (school), 10 minutes, 1 time a day, 5 days a week,
- 2) ADL – Bathing, Special Transfers, 5 minutes, 1 time a day, 7 days a week,
- 3) ADL – Toileting, Special Transfers, 5 minutes, 6 times a day, 2 days a week, and Toileting, Special Transfers, bowel care, 5 minutes, 4 times a day, 5 days a week,
- 4) IADL – Medical Transportation, 7 appointments a year, total, for a neurologist, 3 times per year, 5 minutes per assist and a developmental pediatrician, 4 times a year, 6 minutes per assist for a total average of 11 minutes per week

Total approved time, 1267 minutes per week – 21.25 hours per week (as rounded up to nearest 15 minutes increment) as requested.

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 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.

Patrick Grogan
Hearing Officer
Board of Hearings

cc:

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