

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Approved in Part; Denied in Part	<b>Appeal Number:</b>	2407641
<b>Decision Date:</b>	08/09/2024	<b>Hearing Date:</b>	June 27, 2024
<b>Hearing Officer:</b>	Stanley M. Kallianidis		

**Appellant Representative:**



**MassHealth Representative:**

Kelly Rayen, RN



*Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
Office of Medicaid  
Board of Hearings  
100 Hancock Street, 6<sup>th</sup> Floor  
Quincy, MA 02171*

## APPEAL DECISION

<b>Appeal Decision:</b>	Approved in Part; Denied in Part	<b>Issue:</b>	PCA Services
<b>Decision Date:</b>	08/09/2024	<b>Hearing Date:</b>	June 27, 2024
<b>MassHealth Rep.:</b>	Kelly Rayen, RN		

### Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapter 118E, Chapter 30A, and the rules and regulations promulgated thereunder.

### Jurisdiction

On April 25, 2024, MassHealth modified the appellant's prior authorization request for personal care attendant (PCA) services because it determined that the request was not medically necessary in all areas (see 130 CMR 450.204 and Exhibit 1). The appellant filed this appeal in a timely manner on May 22, 2024 and was granted aid-pending status (see 130 CMR 610.015 and Exhibit 2). A dispute over the amount of assistance is valid grounds for appeal (see 130 CMR 610.032). The appellant was sent notice of the current hearing on May 24, 2024 (Exhibit 3).

### Action Taken by MassHealth

MassHealth modified the appellant's prior authorization adjustment request for PCA services from 76.25 hours to 57.75 hours per week for the period May 10, 2024-May 9, 2025.

### Issue

Was MassHealth correct, pursuant to 130 CMR 450.204, in determining that the appellant's request was not medically necessary in the areas that his PCA time had been modified?

## Summary of Evidence

The MassHealth representative testified that the appellant, an adult male with spastic cerebral palsy, along with his PCA provider, the Center for Living and Working, requested 76.25 hours per week of PCA services. MassHealth modified the request to 57.75 hours. The period in question covers May 10, 2024-May 9, 2025 (Exhibits 1 & 4).

The appellant is in an aid pending status and is currently receiving 59.75 hours of PCA services.

The MassHealth representative submitted into evidence the packet consisting primarily of the PCA evaluation results and testified that the modified PCA time included requested weekly minutes for transfers, repositioning, bathing, hair care, shaving, lotion grooming, bladder care, suctioning and meal preparation (Exhibit 4).

At the hearing, the appellant's representative agreed to the modifications for hair care, lotion grooming, suctioning and meal preparation. In addition, following testimony from the appellant, the MassHealth representative testified that she would be willing to increase time for repositioning to 3 minutes, 4 times daily, for 7 days, for a total of 84 minutes weekly. This was an increase over the approved 2 minutes, 4 times daily for 7 days, or 56 minutes. The appellant's representative agreed to the sufficiency of 3 minutes for repositioning.

The MassHealth representative modified time for transfers from the requested 10 minutes to 7 minutes, 10 times daily for seven days. Bathing was modified down to 40 minutes daily from the 45 minutes requested. Shaving was modified to 10 minutes 3 days per week from the 12 minutes requested. Finally, bladder care was modified from 7 minutes 10 times per day to 5 minutes 10 times per day. The reason for these modifications was that, even though the appellant is totally dependent for his physical needs, the time requested was longer than what was ordinarily required for these tasks. The MassHealth representative further noted that the 40 minutes daily for bathing was an increase over the 30 minutes approved last year, and the 7 minutes approved for bladder care was the same as last year (Exhibit 4).

The appellant's guardian testified that the appellant is totally dependent on his caregivers for all activities. She stated that the appellant's condition was worsening and noted in particular his spasticity as reasons why the requested PCA times for transfers, bathing, shaving, and bladder care were medically necessary.

Along with the appeal, the guardian submitted a letter from the appellant's physician which indicated that "Due to his medical diagnosis he requires 24/7 PCA care" (Exhibit 5).

# Findings of Fact

Based on a preponderance of the evidence, I find:

1. The appellant, an adult male with spastic cerebral palsy, requested 76.25 hours per week of PCA services (Exhibits 1 & 5).
2. MassHealth modified the request to 57.75 weekly PCA hours. The appellant is in an aid pending status and is currently receiving 59.75 hours of PCA services (Exhibits 1 & 4).
3. The period in question is covers May 10, 2024-May 9, 2025 (Exhibits 1 & 4).
4. Modified PCA time included requested weekly minutes for transfers, repositioning, bathing, hair care, shaving, lotion grooming, bladder care, suctioning and meal preparation (Exhibit 4).
5. At the hearing, the appellant's representative agreed to the modifications for hair care, lotion grooming, suctioning and meal preparation (testimony).
6. Also at the hearing, the MassHealth representative and appellant representative agreed to increased time for repositioning to 3 minutes, 4 times daily, for 7 days, for a total of 84 minutes weekly. This was an increase over the approved 2 minutes, 4 times daily for 7 days, or 56 minutes (Exhibit 4 & testimony).
7. MassHealth modified time for transfers from the requested 10 minutes to 7 minutes, 10 times daily for seven days. Bathing was modified down to 40 minutes daily from the 45 minutes requested. Shaving was modified to 10 minutes 3 days per week from the 12 minutes requested. Bladder care was modified from 7 minutes 10 times per day to 5 minutes 10 times per day (Exhibit 4).
8. A letter from the appellant's physician indicated that "Due to his medical diagnosis he requires 24/7 PCA care" (Exhibit 5).

# Analysis and Conclusions of Law

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 recipient 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 (130 CMR 450.204(A)).

Pursuant to 130 CMR 450.204(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 available to MassHealth upon request.

In the instant case, the appellant, an adult male with spastic cerebral palsy, requested 76.25 hours per week of PCA services. MassHealth modified the request to 57.75 weekly PCA hours. The appellant is in an aid pending status and is currently receiving 59.75 hours of PCA services. The period in question covers May 10, 2024-May 9, 2025.

Modified PCA time included requested weekly minutes for transfers, repositioning, bathing, hair care, shaving, lotion grooming, bladder care, suctioning and meal preparation.

At the hearing, the appellant's representative agreed to the modifications for hair care, lotion grooming, suctioning and meal preparation. Also at the hearing, the MassHealth representative and appellant representative agreed to increased time for repositioning to 3 minutes, 4 times daily, for 7 days, for a total of 84 minutes weekly. This was an increase over the approved 2 minutes, 4 times daily for 7 days, or 56 minutes.

The remaining disputes were over modified time for transfers from the requested 10 minutes to 7 minutes, 10 times daily for seven days, bathing, down to 40 minutes daily from the 45 minutes requested, shaving modified to 10 minutes 3 days per week from the 12 minutes requested, and bladder care which was modified to 7 minutes 10 times per day from 5 minutes 10 times per day.

Based upon the evidence and testimony, I conclude that the appellant has not met his burden of proof to show that the PCA times that were requested for transfers, bathing, shaving and bladder care were medically necessary and should not have been modified down. The appellant's representative did not give specific enough testimony as to why the modified times for these tasks were insufficient to meet his medical needs. While the appellant's representative pointed to the appellant's spasticity as justification for approval of the PCA times requested, the MassHealth representative had already taken his spasticity into account in making her determinations. Also,

while the appellant's representative testified that the appellant's condition had worsened over the past year, there was no medical evidence of this in the record. Finally, the doctor's letter that was referenced at hearing failed to address specific PCA times that were required to fulfill the appellant's daily needs and did not mention a worsening condition. Therefore, it was of little probative value.

The appeal is therefore approved in part as to the agreed increased time for repositioning to 84 minutes weekly. It is denied in part in that the remaining PCA modifications are upheld.

## **Order for MassHealth**

Approve 84 weekly minutes for repositioning in addition to the remaining PCA times that have been modified.

## **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 notice, you should contact your local office. If you experience problems with the implementation of this decision, you should report this in writing to the Director of the Board of Hearings, MassHealth, at the address on the first page of this decision.

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Stanley M. Kallianidis  
Hearing Officer  
Board of Hearings

cc:



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