

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved in part Denied in part	Appeal Number:	2407752
Decision Date:	8/28/2024	Hearing Date:	07/03/2024
Hearing Officer:	Kenneth Brodzinski		

Appearance for Appellant:



Appearance for MassHealth:

Kelly Rayen, RN



*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 in part Denied in part	Issue:	Prior Authorization - PCA
Decision Date:	8/28/2024	Hearing Date:	07/03/2024
MassHealth's Rep.:	Kelly Rayen, RN	Appellant's Rep.:	Husband
Hearing Location:	Quincy		

Authority

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

Jurisdiction

Through notice dated May 3, 2024, MassHealth modified a request for prior authorization for Personal Care Attendant (PCA) services by denying some of the requested time for service (Exhibit A). Appellant filed for this appeal in a timely manner on May 9, 2024 seeking approval for the denied time (see 130 CMR 610.015(B) and Exhibit A). Denial of prior authorization for assistance constitutes valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth modified a request for prior authorization for PCA services by denying some of the requested time for service.

Issue

The appeal issue is whether MassHealth properly applied the controlling regulation(s) to accurate facts when it modified Appellant's request for prior authorization for PCA services by denying some of the requested time for service.

Summary of Evidence

MassHealth was represented by a registered nurse and clinical appeals reviewer who testified that a written Prior Authorization (PA) request for a Personal Care Attendant (PCA) initial evaluation was submitted to MassHealth on April 2, 2024, by [REDACTED] on behalf of Appellant seeking 40 hours and 30 minutes/week for one year.

The MassHealth representative testified that according to documentation submitted with the request, Appellant is a woman in her [REDACTED] with a primary diagnosis of: cerebral vascular accident reoccurrence, [REDACTED] and most recently in [REDACTED] which resulted in right upper extremity hemiplegia and limited right lower extremity. She is being seen by [REDACTED] for skilled nursing 3x/week, physical therapy 2x/week and occupational therapy weekly. She lives with adult children and her legally married spouse.

MassHealth modified the request on April 2, 2024, to 38 hours and 15 minutes/week for one year with effective dates of service: May 3, 2024, to May 2, 2025. The MassHealth representative testified that 6 modifications were made. Requested time was reduced for assistance with mobility; grooming/nailcare; denture care; haircare; shaving; and blood pressure monitoring. MassHealth cited regulations 130 CMR 422.410: Activities of Daily Living and 130 CMR 450.204: Medical Necessity (A)(1)(2) and (B) in support of its modifications.

After exchanging testimony, MassHealth agreed to restore time requested for assistance with grooming/nailcare and denture care. Appellant indicated there was no dispute with the modification made to mobility. By the end of the hearing, the only modifications left in dispute were time to assist with haircare, shaving and blood pressure monitoring.

Haircare:

Appellant requested 5 minutes, once per day, seven days per week to assist with haircare. Masshealth approved 4 minutes, once per day, seven days per week on the grounds that the time requested is longer than ordinarily required for someone with Appellant's physical needs.

Appellant's representative testified that he has never timed the activity, but believes it takes longer than 4 minutes. He explained that Appellant can brush her own hair, but cannot do her own pony tail. Also, the PCA takes the time to do the task well so Appellant looks nice. In response, the MassHealth representative opined that 4 minutes should be more than enough time for a pony tail.

Shaving:

Appellant requested 15 minutes, once per day, one day per week to assist with shaving. Masshealth approved 5 minutes, once per day, one day per week on the grounds that the time requested is longer than ordinarily required for someone with Appellant's physical needs.

Appellant's representative stated that he never timed the activity, but he believes it takes much longer than 5 minutes for the PCA to shave Appellant's legs and underarms. He testified that shaving is done while Appellant is in the tub which is not handicapped accessible and is very space restricted. He described that Appellant has to be seated while in the tub and is very hesitant with the activity.

Blood Pressure Monitoring:

Appellant requested 5 minutes, twice per day, seven days per week to assist with blood pressure monitoring. Masshealth approved 3 minutes, once per day, seven days per week on the grounds that the time requested is longer than ordinarily required for someone with Appellant's physical needs. The MassHealth representative explained that the PCA is not compensated for the time it takes to complete the entire procedure, but only for the time it takes to apply and remove the cuff and note the reading.

Appellant's representative testified that 5 minutes are needed to compensate the PCA for placing the cuff, documenting the reading, taking a second reading for accuracy, documenting it and removing the cuff.

Findings of Fact

Based on a preponderance of the evidence, this record supports the following findings:

1. A written Prior Authorization (PA) request for a Personal Care Attendant (PCA) initial evaluation was submitted to MassHealth on April 2, 2024, by [REDACTED] on behalf of Appellant seeking 40 hours and 30 minutes/week for one year.
2. According to documentation submitted with the request: Appellant is a woman in her [REDACTED] [REDACTED] with primary diagnosis of: cerebral vascular accident reoccurrence, [REDACTED] and most recently in [REDACTED] which resulted in right upper extremity hemiplegia and limited right lower extremity. She is being seen by [REDACTED] for skilled nursing 3x/week, physical therapy 2x/week and occupational therapy weekly. Appellant lives with adult children and her legally married spouse.
3. MassHealth modified the request on April 2, 2024, to 38 hours and 15 minutes/week for

one year with effective dates of service: May 3, 2024, to May 2, 2025.

4. MassHealth made 6 modifications to the request.
5. Requested time was reduced for assistance with mobility; grooming/nailcare; denture care; haircare; shaving; and blood pressure monitoring.
6. After exchanging testimony, MassHealth agreed to restore time requested for assistance with grooming/nailcare and denture care.
7. Appellant indicated there was no dispute with the modification made to time to assist with mobility.
8. By the end of the hearing, the only modifications left in dispute were time to assist with haircare, shaving and blood pressure monitoring.
9. Appellant requested 5 minutes, once per day, seven days per week to assist with haircare.
10. Masshealth approved 4 minutes, once per day, seven days per week on the grounds that the time requested is longer than ordinarily required for someone with Appellant's physical needs.
11. Appellant can brush her own hair, but cannot do her own pony tail.
12. Appellant has long hair (Exhibit B, page 19).
13. Appellant requested 15 minutes, once per day, one day per week to assist with shaving.
14. Masshealth approved 5 minutes, once per day, one day per week to assist with shaving on the grounds that the time requested is longer than ordinarily required for someone with Appellant's physical needs.
15. Shaving is done while Appellant is in the tub which is not handicapped accessible and is very space restricted.
16. Appellant has to be seated while in the tub and is very hesitant with the activity.
17. Appellant requested 5 minutes, twice per day, seven days per week to assist with blood pressure monitoring.
18. Masshealth approved 3 minutes, once per day, seven days per week on the grounds that the time requested is longer than ordinarily required for someone with Appellant's physical

needs.

19. The PCA is not compensated for the time it takes to complete the entire procedure, but only for the time it takes to apply and remove the cuff and note the reading.

20. For each instance of bp monitoring, a second reading is taken for accuracy.

Analysis and Conclusions of Law

The party appealing an administrative decision bears the burden of demonstrating the decision's invalidity (*Merisme v. Board of Appeals of Motor Vehicle Liability Policies and Bonds*, 27 Mass. App. Ct. 470, 474 (1989)).

Haircare and Shaving: Modifications reversed

According to the "Time-For-Tasks Guidelines for the MassHealth PCA Program" (11-16-11 page 5 of 14) time for assistance with all grooming tasks (nail care, oral care, shaving, deodorant application, hair care, washing and drying hands and face) for a person requiring maximum assistance is 20 minutes and 25 minutes for a person who is "total dependent". According to the Nurse's evaluation, Appellant requires maximum assistance for oral care and haircare and is total dependent for assistance with nailcare and shaving. According to the guidelines, Appellant should require somewhere between 20 and 25 minutes for all grooming assistance. Appellant, however, did not request separate time for assistance with washing or applying deodorant; therefore, it is reasonable to conclude that the total time should be closer to 18-20 minutes.

By the conclusion of the hearing, MassHealth had approved 10 minutes per week for nailcare (1.43 minutes per day); 5 minutes per day for oral (denture) care; 4 minutes per day for haircare and 5 minutes once per week for shaving (0.71 minutes per day). This totals roughly 11.14 minutes per day to assist with all of Appellant's grooming needs, well below the 18-20 minutes stated in the Guidelines.

Allowing the requested time for haircare of 5 minutes per day and shaving 15 minutes per week (2.14 minutes per day) would bring the total time to assist with all grooming needs to 13.57 minutes per week, still below the amount recommended by the Guidelines given Appellant's degree of impairment and the tasks for which assistance is sought.

Based on the times recommended by the Guidelines, the time Appellant requested to assist with all grooming activities is reasonable and consistent with said Guidelines.

Blood Pressure Monitoring: Modification upheld

Appellant request 5 minutes per incident and Masshealth approved 3 minutes noting that the time is only for applying and removing the cuff and noting the readings. Appellant's representative acknowledged not timing the activity, but noted that two readings are taken for accuracy. Taking a second reading for accuracy does not require replacing and removing the cuff; therefore, the only additional compensable time is for noting the additional reading.

The Guidelines do not address this task, but the 3 minutes allowed by MassHealth is not unreasonable and was made and supported by professional clinical reviewers. Appellant bears the burden of showing that MassHealth's modification was incorrect. On this record, given that Appellant has not timed how long it takes to place and remove the cuff and note the two readings and has not offered any other objective basis for supporting the requested 5 minutes, MassHealth's modification stands.

For the foregoing reasons, the appeal is APPROVED as to restoring time requested for assistance with haircare and shaving and DENIED as to time to assist with blood pressure monitoring.

Order for MassHealth

In addition to restoring time for nailcare and denture care as agreed at hearing, restore time for assistance with haircare and shaving per request.

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 the Enrollment Center gives you any problems with implementing 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.

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.

Kenneth Brodzinski
Hearing Officer
Board of Hearings

cc:

[REDACTED]

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