

Office of Medicaid
BOARD OF HEARINGS

Appellant Name and Address:



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|-------------------------|---------------|-----------------------|-----------------|
| Appeal Decision: | Denied | Appeal Number: | 2408560 |
| Decision Date: | 9/9/2024 | Hearing Date: | August 19, 2024 |
| Hearing Officer: | Brook Padgett | Aid Pending: | Yes |

Appellant Representative:



MassHealth Representative:

Robin Brown, OTR/L



Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
Board of Hearings
100 Hancock Street, 6th floor
Quincy, MA 02171

APPEAL DECISION

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|---------------------------|-----------------|------------------------|---------------------------------|
| Appeal Decision: | Denied | Issue: | PCA Services 130 CMR 422.410 |
| Decision Date: | 9/9/2024 | Hearing Date: | August 19, 2024 |
| MassHealth's Rep.: | R. Brown, OTR/L | Appellant Rep.: | |
| Hearing Location: | Quincy | | |

Authority

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

Jurisdiction

The appellant received a notice dated May 07, 2024, stating: MassHealth has modified your request for prior authorization for personal care attendant services because the time requested for services is longer than ordinarily required for someone with your physical needs. (Exhibit 1).

The appellant filed this appeal timely on May 29, 2024, and has continued to receive aid pending the outcome of this appeal. (130 CMR 610.015(B); Exhibit 2).

Modification of prior approval is valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

The appellant's prior authorization (PA) request for weekly personal care attended (PCA) services was modified from 59.45 hours per week to 53.00 hours per week.

Issue

Is MassHealth correct in determining the time requested for PCA assistance did not meet the requirements set forth in the PCA regulations?

Summary of Evidence

The MassHealth representative testified telephonically stating MassHealth received a request for PCA services on May 09, 2024, for a ■ year old female with the primary diagnosis of spinal sciatica, back pain, asthma, impaired mobility, decreased active range of motion, shortness of breath, fatigue and weakness. The provider requested 59.45 of PCA hours per week. The representative stated MassHealth modified the request to 53.00 hours per week based on the ordinary time needed to perform the requested activity with the appellant's condition. The representative argued the appellant is documented as requiring a maximum assist and was given the maximum time allowed according to the MassHealth Time for Task Guidelines. The representative submitted the PCA fair hearing package and stated that the MassHealth actions are based on the regulations found at 130 CMR 422.410(A)(1) and 130 CMR 450.204(A)(1) and MassHealth PCA Time for Task Guidelines. (Exhibit 4).

The MassHealth representative testified to the following modifications:

The appellant requested 5 minutes, 1 time a day, 4 times a week to wash her hair. MassHealth denied the request in full and argued the appellant was approved for 45 minutes for a daily bath and the appellant's hair should be washed during this time. MassHealth also stated the appellant was approved for an additional 10 minutes a day for a quick wash. MassHealth stated the appellant's request is longer than ordinarily required for an individual with her diagnosis.

The appellant and her representative responded that the appellant requires additional time to wash her hair as she is very unsteady in the shower and she has difficulty using her hands to assist in washing her hair.

MassHealth stated the appellant requested 10 minutes, 1 time a week for nail care. MassHealth modified this request to 5 minutes, 1 time a week as the appellant's request is longer than ordinarily required for an individual with her diagnosis. The appellant is approved for 20 minutes a month for nail care.

The appellant and her representative stated that the appellant requires nail care every week and

that the additional time is required as the appellant cannot assist with her nail care. The appellant's nails grow very fast and will catch on her sheets if they are not cut once a week. The appellant stated she also has a toenail fungus which requires extra care.

MassHealth responded the standard of care for an individual who has their nails cared for by a podiatrist is every 2 months and that nail care every week is excessive.

MassHealth testified the appellant requested 7 minutes, 1 time per day, 7 days a week for assistance with Grooming (Other) which was modified to 5 minutes, 1 time per day, 7 days a week. MassHealth stated this request was for applying lotion. MassHealth argued the appellant is a maximum assist, but not a total assist and therefore she has the ability to assist in applying lotion and the time approved is based on the ordinary time needed to perform the activity with the appellant's diagnosis.

The appellant and her representative responded that the appellant cannot bend over and her hands are weak so although she can apply some of her lotion the majority of the lotion is applied by the PCA. The appellant argued It takes more than the standard amount of time as she gets lotion over all of her body and she has to sit or lie down as can't stand as it is being applied.

MassHealth stated the appellant requested 10 minutes, 8 times a day, 7 times a week for Bladder Care. MassHealth modified this request to 8 minutes, 6 times a day, 7 days a week as the appellant's request is longer than ordinarily required for an individual with her diagnosis.

The appellant and her representative stated that the appellant must urinate frequently which many times means at least once an hour and she requires more than 8 minutes for assistance. The appellant argued the PCA must hand her a cloth to clean herself with and then another to dry. The appellant indicated she also wears adult absorbent products.

MassHealth responded the appellant has also been given PCA time for Bowel Care which would include time for urination. MassHealth stated the combined episode results in 9 times a day for Bladder Care.

MassHealth stated the appellant requested for 15 minutes, 3 times a day, 7 days a week for Bowel Care. MassHealth modified this request to 12 minutes, 3 times a day, 7 days a week as the appellant's request is longer than ordinarily required for an individual with her diagnosis.

The appellant and her representative responded that the appellant takes more than 12 minutes for her bowel care as she has frequent episodes often once an hour and up to 12 times a day. The appellant stated she doesn't need time getting to or using the toilet, but often times

depending on the episode she does require a great deal of cleaning up. The appellant stated the PCA must hand her a cloth to clean herself and then another to dry and often times it takes quite a while.

MassHealth testified the appellant requested 95 minutes per day, 7 days a week for Meal Prep (20 minutes for breakfast, 30 minutes, for lunch, and 45 minutes for dinner). MassHealth modified this request to 90 minutes a day as the time requested was more than the maximum allowed to perform the activity with the appellant's diagnosis.

The appellant responded that she has the ability to assist in preparing her meals, however her doctor has told her she should not be using a knife for fear she will cut herself and she should stay away from the stove and heavy pots and pans as she is a burn risk.

MassHealth responded that each determination of time is reviewed according to the Time for Task Guidelines. The guidelines give a range of times for individuals after common considerations and based on their level of physical assist (Minimal Assist, Moderate Assist, Maximum Assist or Totally Dependent). The appellant was approved for the maximum allowed as a maximum assist in each category according to the Time for Task Guidelines.

The appellant added that she has been having seizures which require additional PCA assistance.

MassHealth stated there was no evidence of seizures in the record and the appellant should contact her provider to update her case with this new medical information so it can be determined if more time is required.

Findings of Fact

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

1. On May 09, 2024, a PCA evaluation was performed by a registered nurse with the appellant's provider agency which requested 59.45 of PCA hours per week. (Exhibit 4).
2. At the time of the review the appellant was [REDACTED] years old with a primary diagnosis spinal sciatica, back pain, asthma, impaired mobility, decreased active range of motion, shortness of breath, fatigue and weakness. (Exhibit 4).
3. On May 11, 2024, MassHealth modified the appellant's PCA request to 53.00 hours per week as the requested time was longer than the ordinary time needed to perform the requested activities with the appellant's diagnosis. (Exhibit 1).

4. MassHealth and the appellant's provider have determined the appellant is a Maximum Assist Member for Time for Task Guideline purposes which requires up to 75% physical assistance to complete each task. (Exhibit 4).
5. The appellant requested 5 minutes, 1 time a day, 4 times a week of PCA assistance to wash her hair. (Exhibit 4).
6. MassHealth denied the request for assistance with hair washing in full as the appellant was approved for 45 minutes for a daily bath and the appellant's hair should be washed during this time. (Testimony).
7. The appellant requested 10 minutes, 1 time a week of PCA assistance for nail care. (Exhibit 4).
8. MassHealth modified the request for PCA assistance with nail care to 5 minutes 1 time a week (20 minutes per month) as the appellant's request is longer than ordinarily required for an individual with her diagnosis. (Testimony).
9. The appellant requested 7 minutes, 1 time per day, 7 days a week of PCA assistance for assistance with Grooming (Other) to apply lotion. (Exhibit 4).
10. MassHealth modified the request for PCA assistance with Grooming (Other) to 5 minutes, 1 time per day, 7 days a week as the appellant's request is longer than ordinarily required for an individual with her diagnosis. (Testimony).
11. The appellant requested for 10 minutes, 8 times a week, 7 times a week of PCA assistance for Bladder Care. (Exhibit 4).
12. MassHealth modified the request for PCA assistance with Bladder Care to 8 minutes, 6 times a week, 7 days a week as the appellant's request is longer than ordinarily required for an individual with her diagnosis. (Testimony).
13. The appellant requested for 15 minutes, 3 times a day, 7 days a week of PCA assistance for Bowel Care. (Exhibit 4).
14. MassHealth modified the request for PCA assistance with Bowel Care to 12 minutes, 3 times a day, 7 days a week as the appellant's request is longer than ordinarily required for an individual with her diagnosis. (Testimony).

15. The appellant requested 95 minutes per day of PCA assistance for Meal Prep (20 minutes for breakfast, 30 minutes for lunch, and 45 minutes for dinner) 7 days a week. (Exhibit 4).
16. MassHealth modified the request for PCA assistance with Meal Prep to 90 minutes per day as the time requested was more than the maximum allowed to perform the activity with the appellant's diagnosis. (Testimony).

Analysis and Conclusions of Law

MassHealth covers personal care 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 personal care services are prescribed by a physician or a nurse practitioner who is responsible for the oversight of the member's health care.
- (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 personal care agency, 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.
- (4) The Division has determined that the PCA services are medically necessary and has granted a prior authorization for PCA services. See 130 CMR 422.403(C).

MassHealth will pay for PCA services provided to MassHealth members who can be appropriately cared for in the home (130 CMR 422.401 et seq.). The member must require physical assistance. The personal care agency determines the extent of the personal care services provided by a paid PCA (130 CMR 422.403). Personal care services consist of physical assistance with activities of daily living (ADL'S) (130 CMR 422.410(A)).

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

(A) Activities of Daily Living. 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 that otherwise would be self-administered;
- (3) bathing or 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; and
- (7) toileting: physically assisting a member with bowel and bladder needs.

The appellant requested 5 minutes, 1 time a day, 4 times a week of PCA assistance to wash her hair. MassHealth correctly denied the request in full as the Time for Task Guidelines describe assistance with shower to include shampooing hair, set-up, and transfer in/out of shower. The appellant was approved for 45 minutes for Bathing which includes washing of hair.

The appellant requested for 10 minutes, 1 time a week of PCA assistance for nail care. MassHealth correctly modified this request to 5 minutes 1 time a week (20 minutes a month) as the appellant's request is longer than ordinarily required for an individual with her diagnosis. There was no medical documentation presented that indicates the appellant requires nail care more frequent than the standard of care provided by a podiatrist.

The appellant's requested 7 minutes, 1 time per day, 7 days a week of PCA assistance for Grooming (Other) for applying lotion. MassHealth correctly modified this request to 5 minutes, 1 time per day, 7 days a week as applying lotion is one part of maintaining personal hygiene which can include nail care, oral care, shaving, deodorant application, hair care, washing and drying hands and face. The maximum amount allowed for a maximum assist is 20 minutes for all grooming activities. The appellant is requesting only the application of lotion under grooming so the modification is appropriate.

The appellant requested for 10 minutes, 8 times a day, 7 times a week for PCA assistance with Bladder Care and 15 minutes, 3 times a day, 7 days a week for PCA assistance with Bowel Care. MassHealth correctly modified the Bladder Care request to 8 minutes, 6 times a day, 7 days a week and the Bowel Care to 12 minutes, 3 times a day, 7 days a week as the appellant's requests are longer than ordinarily required for an individual with her diagnosis. Bladder and Bowel Care consists of assisting with the toilet, commode, bedpan, urinal, or incontinent briefs/pads; includes transfers. The PCA performs hygiene, adjusts clothes; assist with bowel and bladder

routines; cleans/changes toileting equipment. Although the appellant and her representative argue the appellant must toilet more frequently there is no medical evidence presented that indicates the appellant has a medical condition that requires more frequent toileting. The appellant testified that she toilets herself and only relies on the PCA to hand her items to clean and dry. MassHealth will only pay for hands-on activities and does not pay for time while the PCA is waiting for the appellant while she performs her own hygiene. Further the appellant has been approved for 9 episodes related to bladder care (6 bladder in addition as well as the requested 3 episodes for bowel care). The appellant has provided no additional evidence to demonstrate she has a medical condition resulting in more episodes than an individual in her condition or that she requires more time than what is anticipated under the Time for Task Guidelines for a physical assist with her bowel and bladder needs.

The appellant requested 95 minutes per day for Meal Prep (20 minutes for breakfast, 30 minutes for lunch, and 45 minutes for dinner) 7 days a week. MassHealth correctly modified this request to 90 minutes per day as the time requested was more than the maximum time allowed to perform the requested activity with the appellant's diagnosis. This determination is based on the MassHealth assessment of the appellant's severity of symptoms, level of participation, level of physical assistance needed, and the fact she has no special dietary needs (such as chopped or pureed food, renal diet, etc.).

The appellant has failed to present any compelling evidence to demonstrate MassHealth has not complied with the Time for Task Guidelines when determining the appellant's need for PCA time. While the guidelines present a range to estimate time when determining PCA assistance, the appellant received the maximum or near maximum PCA time to perform all her requested activities. Without medical evidence to demonstrate the appellant requires time beyond the Time for Task Guidelines the MassHealth action must be upheld.

Based on the regulations and the evidence and testimony presented at the fair hearing MassHealth properly reduced the appellant's PCA request from 59.45 hours per week to 53.00 hours a week and this appeal is DENIED.

Order for the MassHealth

None, other than to remove aid pending.

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.

Brook Padgett
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Prior Authorization Unit OPTUM

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