

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**

[REDACTED]  
[REDACTED]  
[REDACTED]

<b>Appeal Decision:</b>	Approved in part Denied in part	<b>Appeal Number:</b>	2408709
<b>Decision Date:</b>	08/22/2024	<b>Hearing Date:</b>	07/03/2024
<b>Hearing Officer:</b>	Kenneth Brodzinski		

**Appearance for Appellant:**

[REDACTED]

**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

<b>Appeal Decision:</b>	Approved in part Denied in part	<b>Issue:</b>	Prior Authorization - PCA
<b>Decision Date:</b>	08/22/2024	<b>Hearing Date:</b>	07/03/2024
<b>MassHealth's Rep.:</b>	Kelly Rayen, RN	<b>Appellant's Rep.:</b>	Father
<b>Hearing Location:</b>	Quincy	<b>Aid Pending:</b>	Yes

### 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 21, 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 June 6, 2023 seeking approval for the denied time (see 130 CMR 610.015(B) and Exhibit A). Appellant was granted AID PENDING status, keeping her current authorized time in place during the pendency of this appeal. 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 Appellant is currently in AID PENDING status receiving the same amount of PCA time she received last year, 96.25 hours/week.

The MassHealth representative testified that a Prior Authorization (PA) request for a Personal Care Attendant (PCA) re-evaluation was submitted on behalf of Appellant to MassHealth on May 8, 2024, by Northeast Arc for 100 hours/week for one year. MassHealth originally modified the request on May 21, 2024, to 93 hours and 30 minutes/week for one year. On July 1, 2024 MassHealth issued a new notice with corrections to the text: Corrected message is as follows: "Your PCM agency requested 100 hours per week. This Prior Authorization of PCA services is applicable for dates of service beginning July 14, 2024 and ending July 13, 2025. You are authorized for 97 hours and 30 minutes per week".

The MassHealth representative testified that according to documentation submitted for review along with the written prior authorization request, Appellant is a woman in her mid-fifties with the following primary diagnoses: cerebral palsy with spastic quadriplegia, global developmental delay Rett syndrome and seizure disorder. Seizures occur multiple times per day. Appellant also has a G-tube and suprapubic tube which was placed in April 2024. Appellant lives with her legal guardian.

The MassHealth representative testified that 2 modifications were made, one to time requested for assistance with grooming/oral care and the other to time for assistance with housekeeping. MassHealth cited regulations 130 CMR 422.410: Activities of Daily Living and Independent Activities of Daily Living and 130 CMR 450.204: Medical Necessity (A)(1)(2) and (B) to support these modifications.

After exchanging testimony, MassHealth agreed to restore time requested for assistance with grooming/oral care. By the end of the hearing, the only matter left in dispute was the modification made to time to assist with housekeeping.

### **Housekeeping:**

The MassHealth representative testified that Appellant requested 90 minutes per week to assist with housekeeping. The MassHealth representative testified that the time requested was excessive given Appellant's physical needs and noted that Appellant lives with her legal guardian. The MassHealth representative also explained that the PCA is only compensated for time to clean Appellant's own personal space.

Appellant was represented by her father accompanied by Appellant's PCA. Appellant's representatives testified that Appellant lives alone in her own first-floor apartment and her father

lives on the second floor in his own unit. Upon questioning, Appellant's representatives stated that Appellant's apartment is about 400 square feet in size and the PCA only cleans Appellant's apartment. They explained that Appellant is extremely compromised and the PCA has to routinely clean and disinfect Appellant's bed and Hoyer lift. They also explained the large amount of laundry that needs to be done.

In response, the MassHealth representative testified that "Housekeeping" includes only light chores such as dusting, sweeping and vacuuming, and does not include time for disinfecting and cleaning equipment. Time for disinfecting and cleaning equipment, as well as laundry, are compensable, but under categories separate from housekeeping.

Appellant's father was agitated throughout the hearing and became verbally combative often speaking over and through the hearing officer as he tried to explain how time is assessed and allotted under the PCA program. The hearing officer made several unsuccessful attempts to urge Appellant's father to focus on the specific modification at issue and not to only discuss the total amount of PCA time that was needed per week. Appellant's father repeatedly accused the hearing officer and the MassHealth representative of having no understanding of Appellant's situation and needs. The father eventually said "end the hearing now and I will just appeal" at which point the hearing officer ended the hearing.

## **Findings of Fact**

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

1. Appellant is currently in AID PENDING status receiving the 96.25 hours/week of PCA time that was approved last year.
2. A Prior Authorization (PA) request for a Personal Care Attendant (PCA) re-evaluation was submitted on behalf of Appellant to MassHealth on May 8, 2024, by Northeast Arc for 100 hours/week for one year.
3. MassHealth originally modified the request on May 21, 2024, to 93 hours and 30 minutes/week for one year.
4. On July 1, 2024 MassHealth issued a new notice with corrections to the text: Corrected message is as follows: "Your PCM agency requested 100 hours per week. This Prior Authorization of PCA services is applicable for dates of service beginning July 14, 2024 and ending July 13, 2025. You are authorized for 97 hours and 30 minutes per week".
5. According to documentation submitted for review along with the written prior authorization request, Appellant is a woman in her mid-fifties with the following primary diagnoses:

cerebral palsy with spastic quadriparesis, global developmental delay Rett syndrome and seizure disorder. Seizures occur multiple times per day. Appellant also has a G-tube and suprapubic tube placed in April 2024.

6. Appellant live alone in a 400 square foot, first-floor apartment.
7. Appellant's father serves as her legal guardian and resides on the floor above Appellant's apartment.
8. MassHealth made two modifications, one to time requested for assistance with grooming/oral care and the other to time for assistance with housekeeping.
9. After exchanging testimony, MassHealth agreed to restore time requested for assistance with grooming/oral care.
10. By the end of the hearing, the only matter left in dispute was the modification made to time to assist with housekeeping.
11. Appellant requested 90 minutes per week to assist with housekeeping.
12. MassHealth concluded the time requested was excessive given Appellant's physical needs and noted that Appellant lives with her legal guardian and the PCA is only compensated for time to clean Appellant's own personal space.
13. Appellant's PCA only cleans Appellant's apartment.
14. Appellant is extremely compromised and the PCA has to routinely clean and disinfect Appellant's bed and Hoyer lift.
15. "Housekeeping" includes only light chores such as dusting, sweeping and vacuuming, and does not include time for disinfecting and cleaning equipment or laundry.
16. Time for disinfecting and cleaning equipment, as well as laundry, are compensable, but under categories separate from housekeeping.

## **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)).

Time for assistance with Instrumental Activities of Daily Living (IADL's), which includes housekeeping, is usually authorized in increments of 45, 60 or 90 minutes. Appellant requested 90; MassHealth authorized 45.

The record shows that MassHealth's determination was based, in part, on two errors of fact. First, that Appellant lived with her legal guardian when she in fact lives alone. Second, that the request included time for cleaning more than Appellant's personal space when in fact the PCA only cleans Appellant's apartment. While these errors do not support lowering the time to 45 minutes per week, they do not justify 90 minutes given that Appellant's apartment is only 400 square feet in total. Accordingly, on this record, it is reasonable to increase the authorized time from 45 minutes to 60 minutes.

If time is needed to assist with disinfecting Appellant's bed and equipment and has not yet been requested under the proper categories of assistance, Appellant can approach her PCM agency and ask for an "adjustment" to request such time.

For the foregoing reasons, the appeal is APPROVED as to restoring time requested for grooming/oral care and increasing time for housekeeping from 45 minutes to 60 minutes per week. The appeal is DENIED as to restoring time for housekeeping to the requested 90 minutes per week.

## **Order for MassHealth**

Remove AID Pending. Restore time requested for “grooming – oral care” as agreed at hearing and increase time for housekeeping from 45 to 60 minutes per week.

## **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.

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Kenneth Brodzinski  
Hearing Officer  
Board of Hearings

cc:

  


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