

Office of Medicaid  
**BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2410898
Decision Date:	9/16/2024	Hearing Date:	August 15, 2024
Hearing Officer:	Brook Padgett	Record Open:	August 29, 2024

Appellant Representative:

Pro se

MassHealth Representative:

Robin Brown, OTR/L



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

## APPEAL DECISION

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	PCA Medical Necessity 130 CMR 450.204
<b>Decision Date:</b>	9/16/2024	<b>Hearing Date:</b>	August 15, 2024
<b>MassHealth Rep.:</b>	Robin Brown, OTR/L	<b>Appellant Rep.:</b>	Pro se
<b>Hearing Location:</b>	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 June 28, 2024, stating: "Your request for prior authorization for personal care attendant (PCA) services has been modified." (Exhibit 1).

The appellant filed this appeal timely on July 12, 2024. (130 CMR 610.015(B); Exhibit 2).

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

### Action Taken by MassHealth

MassHealth modified the appellant's request for PCA services.

### Issue

Did MassHealth correctly reduce the appellant's requested 50.45 hours of PCA assistance to 49.00 hours as the request did not meet the requirements set forth in the medical necessity regulation?

## Summary of Evidence

The MassHealth representative testified a PCA evaluation was performed by a registered nurse with the appellant's provider agency on June 25, 2024. The provider indicated the appellant is [REDACTED] years old, lives alone and has a diagnosis of morbid obesity and a lumbar spine herniated disc. The MassHealth representative stated that the appellant requested 50.45 hours of PCA assistance which was reduced to 49.00 hours as the request did not meet the requirements set forth in the medical necessity regulation. The representative indicated all activities were approved in full with the exception of time requested for assistance with passive range of motion (PROM), bathing and medical transportation.

During the hearing the appellant accepted the MassHealth modification of PCA time regarding the time for PROM and bathing and withdrew his appeal regarding those requests (See Exhibit 6). The appellant maintained his need for medical transportation.

The MassHealth representative testified a request was made for 39 minutes per week for medical transportation (20 minutes x 8 times per year or 3 minutes per week for PCP, 30 minutes x 6 times per year or 3 minutes per week for Orthopedic, 23 minutes x 2 times per year or 1 minute per week for Urology and 15 minutes x 112 times a year or 32 minutes per week for Physical Therapy (PT)). The transportation request was modified to 13 minutes per week as the appellant's request is more than required for the appellant's condition. The MassHealth representative stated all the transportation requests were approved except for transportation for PT which was modified to 20 visits a year per the PCA program regulations. (130 CMR 432.417). MassHealth submitted into evidence the appellant's clinical review package. (Exhibit 4).

The appellant testified that he attends PT at least twice a week and is requesting PCA assistance with transportation for a 112 visits a year. The appellant submitted a letter from Beth Israel Lahey Health listing the appellant's medical history of morbid obesity, chronic back pain, knee pain, plantar fasciitis as well as high blood pressure, hyperlipidemia, anxiety and depression and requested an increase of one extra PCA hour per day. (Exhibit 5).

MassHealth responded that PT twice a week for a year is excessive and that typically an individual may go to PT 2 or 3 times a week in the beginning of therapy which will taper down to once a week. MassHealth stated 20 times a year is the maximum allowed per regulation without verification of medical necessity.

At the appellant's request the record remain open until August 29, 2024, to submit evidence of the medical necessity for more than 20 visits a year for PT. (Exhibit 7).

No additional information was submitted prior to the close of the record open period.

## Findings of Fact

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

1. The appellant is ■ years old, lives alone and has a diagnosis of morbid obesity and a lumbar spine herniated disc. (Exhibit 4 and Testimony).
2. On June 25, 2024 a PCA evaluation was performed by a registered nurse from the appellant's provider agency requesting 50.45 hours of PCA assistance. (Exhibit 4).
3. MassHealth reduced the appellant's request to 49.00 hours of PCA assistance as the request did not meet the requirements set forth in the medical necessity regulation. (Exhibit 1).
4. Time requested for assistance with activities was approved in full or the appellant agreed to the modifications with the exception of time requested for transportation to PT medical appointments. (Exhibit 6).
5. The appellant requested 15 minutes x 112 times a year or 32 minutes per week for transportation to PT appointments. (Exhibit 4).
6. At the appellant's request the record remain open until August 29, 2024, to submit evidence of the medical necessity for more than 20 PT visits a year. (Exhibit 7).
7. No additional information was submitted prior to the close of the record open period.

## 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 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). (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 MassHealth agency has determined that the PCA services are medically necessary. (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 prescribed by a physician 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. 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. 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 personal care services; and
  - (c) other special needs approved by the MassHealth as being instrumental to the health care of the member.

The requested services must also be medically necessary for prior authorization to be approved. MassHealth will not pay a provider for services that are not medically necessary and may impose sanctions on a provider for providing or prescribing a service or for admitting a member to an inpatient facility where such service or admission is not medically necessary.

- (A) A service is “medically necessary” if:
- (1) it is reasonably calculated to prevent, diagnose, prevent 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. Services that are less costly to the MassHealth include, but are not limited to, health care reasonably known by the provider or identified by the MassHealth 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. See 130 CMR 450.204

A PCA evaluation was performed by a registered nurse with the appellant’s provider agency on June 25, 2024. The provider indicated the appellant is ■ years old, lives alone and has a diagnosis of morbid obesity and a herniated disc. The appellant’s provider requested 50.45 hours of PCA assistance which was reduced to 49.00 hours as the request did not meet the requirements set forth in the medical necessity regulation. The representative indicated all activities were approved except for time for transportation to PT appointments. The appellant requested 15 minutes x 112 times a year or 32 minutes per week. The transportation request was modified to 20 times per year or 6 minutes per week for a total of 13 minutes per week of PCA assistance with transportation.

130 CMR 432.417: Prior Authorization

(A) General Terms.

(1) Prior authorization (PA) must be obtained from the MassHealth agency or its designee as a prerequisite to payment for visits in excess of the number of visits described in 130 CMR 432.417(B). Without such prior authorization, the MassHealth agency will not pay therapy providers for services in excess of the number of visits described in 130 CMR 432.417(B). ...

(B) Services that Require Prior Authorization. The MassHealth agency requires that the therapist obtain prior authorization as a prerequisite to payment for the following services to eligible MassHealth members:

(1) **more than 20 occupational-therapy visits or 20 physical-therapy visits, including group-therapy visits but not including evaluations, for a member in a 12-month period;** (Emphasis added).

MassHealth approved or the appellant agreed to the time requested for assistance with all activities with the exception of time requested for assistance for transportation to PT appointments. MassHealth correctly modified the request for 112 PT visit to 20 PT visits as the appellant has failed to provided evidence of the medical necessity to receive more than 20 PT visits within a 12 month period as required by the MassHealth regulations.

Based on the record MassHealth appropriately reduced the appellant's request for 50.45 hours of PCA assistance to 49.00 hours as the request did not meet the requirements set forth in the medical necessity regulation and this appeal is DENIED.

## **Order for the MassHealth**

None.

## **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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Brook Padgett  
Hearing Officer  
Board of Hearings

cc: MassHealth representative: PA Unit, OPTUM