

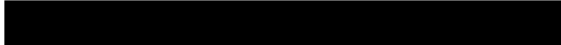
**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Approved in Part; Dismissed in Part; Denied in Part	<b>Appeal Number:</b>	2412143
<b>Decision Date:</b>	11/12/2024	<b>Hearing Date:</b>	09/20/2024
<b>Hearing Officer:</b>	Emily Sabo		

**Appearance for Appellant:**




**Appearance for MassHealth:**

Kelly Rayen, R.N., Optum



*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; Dismissed in Part; Denied in Part	<b>Issue:</b>	Prior Authorization; Personal Care Attendant Services
<b>Decision Date:</b>	11/12/2024	<b>Hearing Date:</b>	09/20/2024
<b>MassHealth's Rep.:</b>	Kelly Rayen	<b>Appellant's Rep.:</b>	
<b>Hearing Location:</b>	Quincy Harbor South (Telephone)	<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 thereunder.

### Jurisdiction

Through a notice dated July 30, 2024, MassHealth modified the Appellant's prior authorization request for personal care attendant (PCA) services from the requested 101 hours and 15 minutes weekly, to 86 hours and 30 minutes weekly. Exhibit 1. The Appellant's representative filed this appeal with the Board of Hearings in a timely manner on August 6, 2024. 130 CMR 610.015; Exhibit 2. Modification of a prior authorization request is valid grounds for appeal to the Board of Hearings. 130 CMR 610.032.

### Action Taken by MassHealth

MassHealth modified the Appellant's prior authorization request for PCA services.

### Issue

Was MassHealth correct, pursuant to 130 CMR 422.410(A) and 130 CMR 450.204(A), to modify the Appellant's prior authorization request for PCA services from the requested 101 hours and 15

minutes weekly to 86 hours and 30 minutes weekly?

## Summary of Evidence

The hearing was conducted by telephone. The Appellant was represented by her daughter and health care proxy, who verified the Appellant's identity. The MassHealth representative, who is a Registered Nurse and clinical appeals reviewer, testified that the Appellant is [REDACTED] old and has advanced Alzheimer's dementia, and contraction of all four limbs. The MassHealth representative testified that the Appellant is frail elder whose body cannot bear weight. The MassHealth representative testified that the Appellant has a catheter and uses a G-tube for feeding. The Appellant is also bedbound and nonverbal. The MassHealth representative testified that the Appellant's personal care management services agency, Tempus, submitted a re-evaluation request to MassHealth on the Appellant's behalf for 101 hours and 15 minutes weekly for the period of August 31, 2024 through August 30, 2025. The MassHealth representative testified that MassHealth modified the authorization to 86 hours and 30 minutes on the grounds that the additionally requested time was not medically necessary.

The MassHealth representative testified that MassHealth modified the request in the activities of daily living of grooming and passive range of motion (PROM). After discussion at the hearing, the MassHealth representative agreed to restore the time for grooming to the total 575 minutes weekly, which were requested by Tempus.<sup>1</sup>

The MassHealth representative testified that the time requested for PROM was not authorized because it does not meet medical standards of care. Tempus had requested a total of 560 minutes per week, with 140 minutes per week for each limb. Exhibit 5 at 13. The MassHealth representative testified that because the Appellant has osteoporosis and is at high risk of fracture, the risk outweighs any benefit to the Appellant.

The Appellant's representative testified that the Appellant has splints on her limbs and that the splints are put on twice a day, and that the personal care attendant needs to massage the Appellant's limbs to apply and remove the splints. The Appellant's representative testified that the Appellant's doctor said this was important to do because otherwise the Appellant's limbs would contract. The Appellant's representative testified that the Appellant has had osteoporosis since her [REDACTED] and that she has used splints since 2011. The Appellant's representative testified that the Appellant has been able to maintain her condition through the work done to prevent further injury. The Appellant's representative also asked why MassHealth had approved the time in the past, but not now.

The MassHealth representative testified that time was authorized for the Appellant's transfers and

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<sup>1</sup> MassHealth had originally modified the time for grooming to be 253 minutes weekly. Exhibit 5 at 17.

repositioning<sup>2</sup> and that applying splints are not the same thing as PROM. The MassHealth representative testified that if the time is used to apply the splints, then it was incorrectly requested by Tempus. The MassHealth representative stated that MassHealth would consider approving time for PROM if there was documentation from an orthopedic or physical therapist that the PROM exercises were medically necessary. Upon inquiry from the hearing officer, the MassHealth representative testified that in 2022, the Appellant was approved for 140 minutes per week for PROM.

## Findings of Fact

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

1. The Appellant is a [REDACTED]-old woman and MassHealth Standard member (Testimony, Exhibit 4).
2. The Appellant has advanced Alzheimer's dementia, and contraction of her limbs. The Appellant is a frail elder whose body cannot bear weight. The Appellant is bed-bound and nonverbal. The Appellant uses a catheter and G-tube for feeding (Testimony, Exhibit 5).
3. Tempus submitted a re-evaluation request for PCA services to MassHealth on the Appellant's behalf for 101 hours and 15 minutes weekly (Testimony, Exhibits 1 & 5).
4. By notice dated July 30, 2024, MassHealth modified the request to allow for 86 hours and 30 minutes of PCA assistance per week (Testimony, Exhibits 1 & 5).
5. The time period for this prior authorization request is August 31, 2024 to August 30, 2025 (Testimony, Exhibit 1).
6. Tempus requested, on the Appellant's behalf, PCA assistance with Grooming for 575 minutes weekly (Testimony, Exhibit 5).
7. MassHealth modified the requested time for Grooming to 253 minutes weekly (Testimony, Exhibit 5).
8. Tempus requested, on the Appellant's behalf, PCA assistance with the Appellant's PROM for 560 minutes weekly (Testimony, Exhibit 5).
9. MassHealth modified the requested time for PROM to 0 minutes weekly (Testimony, Exhibit 5).

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<sup>2</sup> The record also indicates that MassHealth approved the requested 560 minutes for dressing and undressing which references physical assistance with the Appellant's orthotics/braces. Exhibit 5 at 18-19.

10. At the hearing, MassHealth agreed to restore the time for Grooming to 575 minutes weekly (Testimony).
11. In 2022, MassHealth authorized 140 minutes weekly for the Appellant's PROM (Testimony).
12. MassHealth testified that a PCA performing PROM exercises on the Appellant does not meet medical standards of care due to the appellant's high risk of fractures and other injury to the Appellant based on her osteoporosis and frailty (Testimony).

## **Analysis and Conclusions of Law**

MassHealth regulations about PCA services are found at 130 CMR 422.000 *et seq.* Regulation 130 CMR 422.402 defines a PCA as a person who is hired by the member or surrogate to provide PCA services, which are further defined as assistance with the activities of daily living and instrumental activities of daily living as described in 130 CMR 422.410.

Pursuant to 130 CMR 422.403(C), MassHealth covers PCA services when: (1) they are prescribed by a physician; (2) the member's disability is permanent or chronic in nature; (3) the member requires physical assistance with two or more of the following activities of daily living 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; and (4) MassHealth has determined that the PCA services are medically necessary and has granted a prior authorization for PCA services. MassHealth pays for PCA time in physically assisting members to perform the aforementioned activities of daily living.

In 130 CMR 422.402, passive range of motion exercises (PROM) is defined as "movement applied to a joint or extremity by another person solely for the purpose of maintaining or improving the distance and direction through which a joint can move." 130 CMR 422.402. In 130 CMR 422.410(A)(5), PROM is defined as "physically assisting a member to perform range-of-motion exercises." 130 CMR 422.410(A)(5).

Pursuant to 130 CMR 450.204(A), 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 service is "medically necessary" if:

- (1) it is reasonably calculated to prevent, diagnose, prevent the 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 MassHealth. Services that are less costly to MassHealth include, but are not limited to, health care reasonably known by the provider, or identified by 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.

130 CMR 450.204(A).

At the hearing, MassHealth agreed to restore the 575 minutes requested for Grooming weekly. Therefore, this matter is no longer in dispute before the Board of Hearings, and the appeal is APPROVED and DISMISSED IN PART regarding that category. 130 CMR 610.035(A)(8).

There is one area of modification which remains in dispute and requires resolution: PROM. At the hearing, it was apparent that the Appellant's representative and her family, along with the PCA, have provided excellent and devoted care to the Appellant. This is supported by the Appellant's physician's notes in the record. See Exhibit 5 at 49. However, I credit MassHealth's testimony that performing PROM exercises on the Appellant does not meet medical standards of care due to the high risk of fractures and other injury to the Appellant based on her osteoporosis and frailty. In my review of the Appellant's medical history included in the record before me, I did not find a contrary medical opinion indicating that PROM exercises were medically necessary. I also note that the time approved for dressing and undressing includes time for assisting with the Appellant's braces, such as a splint. Exhibit 5 at 18-19. Accordingly, I find that the PCA assistance time for PROM is not medically necessary, and the appeal is DENIED IN PART regarding that category. 130 CMR 450.204(A).

## **Order for MassHealth**

Adjust notice of July 30, 2024, to authorize 575 minutes of PCA assistance weekly for Grooming for the prior authorization period of August 31, 2024 to August 30, 2025.

Send notice to Appellant of implementation only; do not include appeal rights.

## **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 decision, you should contact your MassHealth Enrollment Center. If you experience problems with the implementation of 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.

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Emily Sabo  
Hearing Officer  
Board of Hearings

[REDACTED]

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