

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Dismissed in part; Denied in part	<b>Appeal Number:</b>	2412741
<b>Decision Date:</b>	11/6/2024	<b>Hearing Date:</b>	09/20/2024
<b>Hearing Officer:</b>	Thomas Doyle	<b>Record Open to:</b>	

**Appearance for Appellant:**  
Pro se

**Appearance for MassHealth:**  
Kelly Rayen, RN

**Interpreter:**



*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>	Dismissed in part; Denied in part	<b>Issue:</b>	Prior Authorization – PCA Services
<b>Decision Date:</b>	11/6/2024	<b>Hearing Date:</b>	09/20/2024
<b>MassHealth's Rep.:</b>	Kelly Rayen, RN	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Remote (phone)	<b>Aid Pending:</b>	No

### 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 August 1, 2024, MassHealth modified the appellant's request for prior authorization for Personal Care Attendant (PCA) services. (Ex. 1). Appellant filed this appeal in a timely manner on August 8, 2024. (130 CMR 610.015(B) and Ex. 2). Modification of a request for PCA services is a valid basis for appeal (130 CMR 610.032).

### Action Taken by MassHealth

MassHealth modified the appellant's request for PCA services.

### Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 422.410, in modifying the appellant's request for PCA services.

### Summary of Evidence

The MassHealth representative, a registered nurse, appeared at the hearing telephonically. She testified that the appellant is in her mid-sixties and has a primary diagnosis of End Stage Renal

Disease with dialysis Monday, Wednesday and Friday from 10am to 2pm; fibromyalgia; depression and anxiety and heart failure with edema. She stated appellant lives with her adult children. (Testimony; Ex. 4, p. 4). On July 31, 2024, the appellant's provider, [REDACTED] submitted a prior authorization (PA) request and re-evaluation for PCA services. The provider requested PCA services in the amount of 58 hours and 30 minutes per week for the prior authorization period of October 4, 2024, to October 3, 2025. On August 1, 2024, MassHealth modified the request in several respects and approved 48 hours and 30 minutes per week. The appellant filed a timely appeal on February 12, 2024. (Testimony).

The MassHealth representative testified that there were 9 areas of modification to the PA request. At hearing, 6 of these modifications were resolved as follows:

Dressing: Appellant's request was for 25 minutes a day, 7 days a week and MassHealth modified this to 20 minutes a day, 7 days a week. (Testimony; Ex. 4, p. 15). Appellant accepted MassHealth's modification to 20 minutes a day, 7 days a week. (Testimony).

Toileting, Bladder care (daytime): Appellant's request was for 10 minutes an episode, 7 episodes a day, 7 days a week and MassHealth modified this to 5 minutes an episode, 6 episodes a day, 7 days a week. (Testimony; Ex. 4, p. 17). Appellant accepted MassHealth's modification to 5 minutes an episode, 6 episodes a day, 7 days a week. (Testimony).

Toileting, Bowel care: Appellant's request was for 10 minutes an episode, 2 episodes a day, 7 days a week and MassHealth modified this to 10 minutes an episode, 1 episode a day, 7 days a week. (Testimony; Ex. 4, p. 17). Appellant accepted MassHealth's modification to 10 minutes an episode, 1 episode a day, 7 days a week. (Testimony).

Assistance with Medications (physical assist with medications): Appellant's request was for 3 minutes an episode, 3 episodes a day, 7 days a week and MassHealth modified this to 1 minute an episode, 3 episodes a day, 7 days a week. (Testimony; Ex. 4, p. 19). Appellant accepted MassHealth's modification to 1 minute an episode, 3 episodes a day, 7 days a week. (Testimony).

Meal Preparation (snack): Appellant's request was for 70 minutes total per day, 7 days a week and MassHealth modified this to 60 minutes total per day, 7 days a week. MassHealth eliminated time for a snack. (Testimony; Ex. 4, p. 26). Appellant accepted MassHealth's modification to 60 minutes total per week, 7 days a week. (Testimony).

Housekeeping: Appellant's request was for 60 minutes a week and MassHealth modified this time to 45 minutes a week. (Testimony; Ex. 4, p. 27). Appellant accepted MassHealth's modification to 45 minutes total per week. (Testimony).

The 3 areas of modification that remain in dispute are Grooming, hair care; Undressing; and

Laundry. For each of these areas, the MassHealth representative testified to the basis for MassHealth's modification, and the appellant responded in turn.

Grooming, hair care: Appellant requested PCA assistance with Grooming, hair care, in the amount of 10 minutes an episode, 1 episode a day, 7 days a week. (Ex. 4, p. 13). MassHealth modified the request to 5 minutes an episode, 1 episode a day, 7 days a week. (Testimony). The MassHealth representative stated MassHealth modified the request because the time requested is longer than ordinarily required for someone with the appellant's needs and it should not take longer than 5 minutes to just comb appellant's hair. (Testimony).

Appellant testified it takes 20 minutes to comb her hair because the PCA sometimes trims a little bit of her hair to even it out. She stated the PCA sometimes puts her hair under water to untangle it and not hurt her. When appellant was told this ADL does not include washing of the hair, she asked that the requested time of 10 minutes be given. (Testimony).

Undressing: Appellant requested PCA assistance with Undressing in the amount of 20 minutes an episode, 1 episode a day, 7 days a week. (Ex. 4, p. 15). MassHealth modified the request to 15 minutes an episode, 1 episode a day, 7 days a week. (Testimony). The nurse stated MassHealth modified the request because the time requested is longer than ordinarily required for someone with the appellant's needs. She stated last year appellant was given 10 minutes an episode but it was increased this year by 5 minutes due to appellant's declining health. The nurse stated the time does not include wait time if appellant needs a break. (Testimony).

Appellant stated that if the nurse took 20 minutes to get undressed, it would take her longer because of her handicap. When appellant was reminded the issue is how long it takes for the PCA to undress her, she said she does not have a clock. She asked for the 20 minutes requested by her PCM agency. (Testimony).

Laundry: Appellant requested 90 minutes a week to do laundry. (Ex. 4, p. 27). MassHealth modified this task to 60 minutes a week. (Testimony). The nurse stated MassHealth modified the request because the time requested is longer than ordinarily required for someone with the appellant's needs. The nurse stated the laundry is residential and it is noted appellant is incontinent, so bed linens need to be washed. She stated appellant cannot participate because of disabilities. She stated the time was modified because this task only covers hands on assist, which includes placing the laundry into the machine, transferring the laundry to the dryer and folding and putting away laundry. (Testimony).

Appellant was asked how many loads of just her laundry are done each week. She said she was not sure because she lies down and does not watch her PCA do the laundry. She stated the washing machine is older and "takes forever." She asked for the 90 minutes a week for laundry. (Testimony).

## Findings of Fact

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

1. The appellant is a MassHealth member in her mid-sixties with a primary diagnosis of End Stage Renal Disease with dialysis Monday, Wednesday and Friday from 10am to 2pm; fibromyalgia; depression and anxiety and heart failure with edema. (Testimony; Ex. 4, p. 4).
2. On July 31, 2024, appellant's PCA provider, [REDACTED] submitted a prior authorization request and re-evaluation for PCA services. The provider requested PCA services in the amount of 58 hours and 30 minutes per week for the prior authorization period of October 4, 2024, to October 3, 2025. (Testimony).
3. On August 1, 2024, MassHealth modified the request in several respects and approved 48 hours and 30 minutes per week. (Testimony).
4. Appellant filed a timely appeal on February 12, 2024. (Testimony).
5. At hearing, the parties resolved 6 of the modifications (related to Dressing; Toileting, bladder care; Toileting, bowel care; Assistance with Medications (physical assist with medications); Meal Preparation (snack); and Housekeeping). (Testimony). The modifications for Grooming, hair care; Undressing; and Laundry remained in dispute.
6. Appellant requested PCA assistance with Grooming, hair care, in the amount of 10 minutes an episode, 1 episode a day, 7 days a week. (Ex. 4, p. 13). MassHealth modified the request to 5 minutes an episode, 1 episode a day, 7 days a week. (Testimony).
7. Appellant requested PCA assistance with Undressing in the amount of 20 minutes an episode, 1 episode a day, 7 days a week. (Ex. 4, p. 15). MassHealth modified the request to 15 minutes an episode, 1 episode a day, 7 days a week. (Testimony).
8. Appellant requested 90 minutes a week to do laundry. (Ex. 4, p. 27). MassHealth modified this task to 60 minutes a week. (Testimony).

## Analysis and Conclusions of Law

Regulations concerning Personal Care Attendant (PCA) Services are found at 130 CMR 422.000, et seq. PCA services are physical assistance with activities of daily living (ADLs) and instrumental

activities of daily living (IADLs), 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 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 ADLs as defined in 130 CMR 422.410(A); and (4) MassHealth has determined that the PCA services are medically necessary. ADLs and IADLs are addressed in 130 CMR 422.410, which provides as follows:

(A) Activities of Daily Living (ADLs). 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 (IADLs). 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 MassHealth as being instrumental to the health care of the member.

(C ) In determining the number of hours of physical assistance that a member requires under 130 CMR 422.410(B) for IADLs, the personal care agency must assume the following:

(1) When a member is living with family members, the family members will provide assistance with most IADLs. For example, routine laundry, housekeeping, shopping, and meal preparation and clean-up should include those needs of the member.

(2) When a member is living with one or more other members who are authorized for MassHealth personal care services, PCA time for homemaking tasks (such as shopping, housekeeping, laundry, and meal preparation and clean-up) must be calculated on a shared basis.

(3) MassHealth will consider individual circumstances when determining the number of hours of physical assistance that a member requires for IADLs.

In this case, MassHealth modified the appellant's PA request for PCA services by reducing the time requested for several activities. After resolution of most of these modifications at hearing, the areas of Grooming, hair care; Undressing; and Laundry remain in dispute.

Grooming, hair care: Appellant requested PCA assistance with Grooming, hair care, in the amount of 10 minutes an episode, 1 episode a day, 7 days a week. MassHealth modified the request to 5 minutes an episode, 1 episode a day, 7 days a week on the basis the time requested is longer than ordinarily required for someone with the appellant's needs. Appellant testified her PCA trims her hair a "little bit" and because it gets tangled and the PCA does not want to hurt her, puts her hair under water. When reminded this task does not include washing hair, she still requested 10 minutes. Appellant has failed to put forth any evidence showing that more than 5 minutes is needed to comb her hair. Under the preponderance of the evidence standard, I find appellant has failed to meet her burden regarding this task and the appeal is denied as to Grooming, hair care.

Undressing: Appellant requested PCA assistance with Undressing in the amount of 20 minutes an episode, 1 episode a day, 7 days a week. MassHealth modified the request to 15 minutes an episode, 1 episode a day, 7 days a week on the basis the time requested is longer than ordinarily required for someone with the appellant's needs. The MassHealth nurse stated appellant received 10 minutes for undressing last year and the time was increased 5 minutes due to appellant's declining health and less participation by appellant. Appellant stated that if the MassHealth nurse took 20 minutes to get undressed, it would take her longer because of her handicap. When appellant was reminded the issue is how long it takes for the PCA to undress her, she said she does not have a clock. She asked for the 20 minutes requested by her PCM agency. Appellant has not put forth any credible evidence showing MassHealth's modification of time for this task to 15 is unreasonable. Under the preponderance of the evidence standard, I find appellant has failed to meet her burden regarding this task and the appeal is denied as to Undressing.

Laundry: Appellant requested 90 minutes a week to do laundry. MassHealth modified this task to 60 minutes a week on the basis the time requested is longer than ordinarily required for someone with the appellant's needs. MassHealth acknowledges that appellant is incontinent and has soiled bed linens and appellant's disability prevents her participation in doing laundry, however, MassHealth stated, and the record reflects, the laundry is residential and the time was modified because the task only covers hands on assistance. The nurse stated this included putting the laundry into the washer, transferring the laundry to the dryer then folding and putting the laundry away. Appellant did not know how many loads of her laundry the PCA did in a week. She testified she had an older washing machine and the wash "takes forever" and she lies down and does not watch her PCA do laundry. Only hands on assistance by the PCA is covered under the regulations. The fact the washing machine may be older is not relevant because the time waiting for the washing machine to finish the clothes is considered in the time for this task. Appellant is unsure of how many loads of her laundry the PCA does a week. Appellant has not met her burden and I find MassHealth's modification to this task is reasonable based on the record. The appeal is denied as to Laundry.

For the reasons set forth above, appellant has not demonstrated the medical necessity of the full PCA time requested for Grooming, hair care, Undressing and Laundry. This appeal is denied in part (as to these 3 issues) and dismissed in part (as to the issues resolved at hearing).

## **Order for MassHealth**



Implement the changes agreed to at hearing.

## **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.

---

Thomas Doyle  
Hearing Officer  
Board of Hearings

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