

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Dismissed in part, Approved in part	Appeal Number:	2413556
Decision Date:	10/10/2024	Hearing Date:	10/01/2024
Hearing Officer:	Amy B. Kullar, Esq.		

Appearance for Appellant:



Appearance for MassHealth:

Kelly Rayen, R.N., Clinical Reviewer - 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

Appeal Decision:	Dismissed in part, Approved in part	Issue:	Prior authorization – personal care attendant services
Decision Date:	10/10/2024	Hearing Date:	10/01/2024
MassHealth’s Rep.:	Kelly Rayen, R.N.	Appellant’s Rep.:	██████
Hearing Location:	Quincy Harbor South 2 (Telephone)	Aid Pending:	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 prior authorization request for personal care attendant services. *See* 130 CMR 450.024(A), 130 CMR 422.410(A)(7), 130 CMR 422.410(B)(1) and Exhibit 1. The Appellant filed this appeal in a timely manner on September 3, 2024. *See* 130 CMR 610.015(B) and Exhibit 2. MassHealth’s decision to restrict a member’s assistance is valid grounds for appeal. *See* 130 CMR 610.032.

Action Taken by MassHealth

MassHealth modified the Appellant’s prior authorization request for personal care attendant (PCA) services.

Issue

The appeal issue is whether MassHealth was acting within its discretion in modifying the Appellant’s prior authorization request for PCA services.

Summary of Evidence

The MassHealth representative appeared via telephone and identified herself as a registered nurse and clinical appeals reviewer. The Appellant also appeared at hearing via telephone and verified his identity. The parties' testimony and record evidence are summarized as follows:

The Appellant is an adult under the age of 65. The Appellant's medical history includes diabetes with neuropathy, hypertension, osteoarthritis, dyslipidemia, history of pulmonary embolism, dyspnea, deep vein thrombosis (DVT), Bilateral hip replacements, back surgery, left drop foot, carpal tunnel in both hands, and falls. Testimony, Exhibit 6. He lives alone. Testimony. The Appellant was re-evaluated for PCA services on July 10, 2024, and on July 25, 2024, his PCM agency, Greater Springfield Senior Services, requested 42 hours and 45 minutes per week for the service period of 8/1/2024-7/31/2025. This request was modified on August 1, 2024, to 20 hours per week for the service period of 8/1/2024-7/31/2025. Testimony, Exhibit 6.

MassHealth made nine (9) modifications related to PCA assistance with mobility, transfers, overnight mobility and overnight transfers, overnight toileting, dressing, undressing, bladder care, bowel care, and medical transportation.

Based on the testimony and discussion at hearing, MassHealth fully restored time as requested for transfers (3x4x7 or 84 minutes per week), overnight mobility (5x2x7 or ten minutes per night), overnight transfers (5x2x7 or ten minutes per night), overnight toileting (5x2x7 or ten minutes per night), dressing (15x1x7 or 105 minutes per week), undressing (10x1x7 or 70 minutes per week), bladder care (5x6x7 or 210 minutes per week), bowel care (10x2x7 or 140 minutes per week), and the Appellant and MassHealth agreed to 44 minutes per week for medical transportation.

The remaining category under dispute is mobility. The MassHealth representative explained that the Appellant's PCM agency requested three minutes, four times per day, seven days per week (3x4x7 or 84 minutes per week) for PCA assistance with episodes of mobility. The documentation submitted by the Appellant's PCM shows that the Appellant is categorized as a "Moderate" level of assistance for mobility tasks. Exhibit 6 at 15. MassHealth modified this request to zero because the Appellant's clinical record indicates that he can perform the requested task without assistance. She explained that this category is the Appellant moving from "point a to point b in [the Appellant's] living space, with hands on" support of his PCA. Testimony. The Appellant stated in response that he uses a cane or holds onto the walls because he is at a high risk for falls; he's had quite a few falls. He testified that he has chronic pain in his shoulders and back. He feels that having assistance with mobility would be better because he lives alone.

The MassHealth representative asked the Appellant, "Would you be able to ambulate independently with a wheeled walker?" Testimony. The Appellant responded that his home is small, and he is unsure as to how he could fit one in his space, but anything is possible. Testimony. The Appellant stated, "my fear is falling and not having anyone there – the walker would be the

same.” The MassHealth representative testified that unfortunately, risk or fear is anticipatory and the less costly option for the Appellant’s independence would be a wheeled walker. Testimony. The Appellant stated he is open to trying a wheeled walker.

Findings of Fact

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

1. Appellant is a MassHealth member under the age of 65.
2. The Appellant has primary diagnoses of diabetes with neuropathy, hypertension, osteoarthritis, dyslipidemia, history of pulmonary embolism, dyspnea, DVT, Bilateral hip replacements, back surgery, left drop foot, carpal tunnel in both hands, and falls.
3. On behalf of the Appellant, on July 23, 2024, the PCM agency, Greater Springfield Senior Services, submitted to MassHealth a request for 42 hours and 45 minutes per week, with dates of service from 8/1/2024-7/31/2025.
4. On August 1, 2024, MassHealth modified the request in nine (9) categories and approved the Appellant for 20 hours of weekly PCA services, with services being provided for the period 8/1/2024-7/31/2025; specifically, by modifying the times for “mobility, transfers, overnight mobility and overnight transfers, overnight toileting, dressing, undressing, bladder care, bowel care, and medical transportation.” Exhibits 1 and 6.
5. At hearing, MassHealth fully restored time as requested for PCA assistance with transfers 3x4x7 (84 minutes per week), overnight mobility 5x2x7 or ten minutes per night (70 minutes per week), overnight transfers 5x2x7 or ten minutes per night (70 minutes per week), overnight toileting 5x2x7 or ten minutes per night (70 minutes per week), dressing 15x1x7 (105 minutes per week), undressing 10x1x7 (70 minutes per week), bladder care 5x6x7 (210 minutes per week), bowel care 10x2x7 (140 minutes per week), and the Appellant and MassHealth agreed to 44 minutes per week for MD transportation, which resolved the disputes related to PCA assistance with those tasks. Testimony.
6. The Appellant requested three minutes, four times per day, seven days per week (3x4x7 or 84 minutes per week) for PCA assistance with episodes of mobility. Testimony and Exhibit 6.
7. MassHealth modified the request for PCA assistance with mobility to zero. MassHealth modified these requests because the time requested is longer than ordinarily required for someone with the Appellant’s needs. Testimony.

Analysis and Conclusions of Law

MassHealth covers personal care attendant (PCA) services to eligible members who can appropriately be cared for in the home, so long as the following conditions are met:¹ First, the services must be “prescribed by a physician or nurse practitioner who is responsible for the member’s...care.” See 130 CMR 422.403(C)(1). Additionally, the “member’s disability [must be] permanent or chronic in nature and impair the member’s functional ability to perform [at least two] ADLs ... without physical assistance.” See 130 CMR 422.403(C)(2)-(3). Finally, MassHealth must determine that the requested services are medically necessary. See 130 CMR 422.403(4). 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 the MassHealth agency. Services that are less costly to the MassHealth agency include, but are not limited to, health care reasonably known by the provider, or identified by the MassHealth agency 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).

Here, there is no dispute that Appellant meets all the prerequisites to qualify for PCA services. This appeal addresses whether MassHealth allotted sufficient time, in accordance with program regulations, for Appellant to receive PCA assistance to meet his care needs.

The MassHealth PCA program covers medically necessary assistance with the following ADLs:

(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;

¹ PCA services are defined as “physical assistance with ADLs and IADLs provided to a member by a PCA in accordance with the member’s authorized evaluation or reevaluation, service agreement, and 130 CMR 422.410.” See 130 CMR 422.002.

- (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 bathing, personal hygiene, or grooming;
- (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.

See 130 CMR 422.410 (emphasis added).

MassHealth will approve time in accordance with the “activity time performed by a PCA in providing assistance with the [task].” See 130 CMR 422.411. “Activity time” is defined as the actual amount of time spent by the PCA “physically assisting the member” with his or her ADL/IADL. See 130 CMR 422.402.

MassHealth does not, however, pay for those services it considers “non-covered” PCA services, which include, but are not limited to, the following:

- (A) social services including, but not limited to, babysitting, respite care, vocational rehabilitation, sheltered workshop, educational services, recreational services, advocacy, and liaison services with other agencies;
 - (B) medical services available from other MassHealth providers, such as physician, pharmacy, or community health center services;
 - (C) assistance provided in the form of cueing, prompting, supervision, guiding, or coaching
-

See 130 CMR 422.412.

The appeal is dismissed as to PCA assistance with transfers, overnight mobility and overnight

transfers, overnight toileting, dressing, undressing, bladder care, bowel care, and MD transportation, because at hearing, the parties were able to resolve the disputes in these categories of PCA assistance. MassHealth fully restored time as requested for PCA assistance with transfers (3x4x7 or 84 minutes per week), overnight mobility (5x2x7 or ten minutes per night), overnight transfers (5x2x7 or ten minutes per night), overnight toileting (5x2x7 or ten minutes per night), dressing (15x1x7 or 105 minutes per week), undressing (10x1x7 or 70 minutes per week), bladder care (5x6x7 or 210 minutes per week), bowel care (10x2x7 or 140 minutes per week), and the Appellant and MassHealth agreed to 44 minutes per week for medical transportation, which resolved the disputes related to PCA assistance with those tasks. These portions of the appeal are therefore DISMISSED.

As to the Appellant's request for PCA assistance with mobility, this portion of the appeal is approved. The Appellant requested 3 minutes, 4 times per day, 7 days per week (84 minutes per week) for assistance with mobility. This task involves the hands-on assistance of the Appellant's PCA as he ambulates from room to room. MassHealth approved no time for mobility. The Appellant's testimony about his physical limitations was credible and demonstrated that he requires assistance to safely ambulate within his living space. The Appellant's medical conditions, particularly his neuropathy and chronic pain in his shoulders and back, make it difficult for him to assist his PCA with this task. While MassHealth stated that the Appellant should be able to assist his PCA with this task, it is clear from his testimony that he is not able to provide 50% assistance. The Appellant was also willing to try a wheeled walker within his living space to allow him to maintain his current level of independence and autonomy. The Appellant has shown that PCA additional assistance with mobility is medically necessary. The Appellant is approved for mobility as requested: 3 minutes, 4 times per day, 7 days per week (84 minutes per week).

The appeal is DISMISSED IN PART and APPROVED IN PART.

Order for MassHealth

For the prior authorization period 8/1/2024-7/31/2025, approve the following amounts of PCA assistance: 3 minutes, 4 times per day, 7 days per week (84 minutes per week) for mobility; transfers 3x4x7 (84 minutes per week), overnight mobility 5x2x7 or ten minutes per night (70 minutes per week), overnight transfers 5x2x7 or ten minutes per night (70 minutes per week), overnight toileting 5x2x7 or ten minutes per night (70 minutes per week), dressing 15x1x7 (105 minutes per week), undressing 10x1x7 (70 minutes per week), bladder care 5x6x7 (210 minutes per week), bowel care 10x2x7 (140 minutes per week), and 44 minutes per week for medical transportation.

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.

Amy B. Kullar, Esq.
Hearing Officer
Board of Hearings

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