

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	DENIED	Appeal Number:	2414371
Decision Date:	12/16/2024	Hearing Date:	10/25/2024
Hearing Officer:	Kenneth Brodzinski		

Appearance for Appellant:

Pro se

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

Appeal Decision:	DENIED	Issue:	Prior Authorization - PCA
Decision Date:	12/16/2024	Hearing Date:	10/25/2024
MassHealth's Rep.:	Kelly Rayen, RN	Appellant's Rep.:	Pro se
Hearing Location:	Quincy	Aid Pending:	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 September 10, 2024, MassHealth denied a request for prior authorization for renewed Personal Care Attendant (PCA) services ([Exhibit A](#)). Appellant filed this appeal in a timely manner on September 19, 2024 (see 130 CMR 610.015(B) and [Exhibit A](#)). Denial of prior authorization for assistance constitutes valid grounds for appeal (see 130 CMR 610.032). Appellant was granted AID PENDING keeping her previously approved PCA services in place during the pendency of this appeal.

Action Taken by MassHealth

MassHealth denied a request for prior authorization for renewed PCA services.

Issue

The appeal issue is whether MassHealth acted in accordance with the controlling regulations when it denied Appellant's request for prior authorization for renewed PCA services.

Summary of Evidence

Both parties appeared by telephone. Prior to hearing, MassHealth submitted a copy of documents including a copy of the PA request and the supporting nurse's evaluation (Exhibit B). Appellant filed no documentation other than her fair hearing request (Exhibit A).

The Masshealth representative testified that Appellant was initially authorized to receive PCA services in 2023. Appellant had been approved for 11 hours per week for the period on and between September 18, 2023, and October 17, 2024. At that time, Appellant also had in place Visiting Nurse services twice weekly, physical and occupational therapy each twice weekly as well as adult foster care personal assistance on and between June 2, 2023, and June 1, 2024.

The Masshealth representative testified that documentation accompanying the current request reveals Appellant to be a woman in her early [REDACTED] with diagnoses of insulin dependent diabetes since 2003, hypertension and GERD. Appellant has a history of gastroenteritis, colitis, acute respiratory failure/hypoxia, pneumonia, ketoacidosis and heart attack. Appellant has not had any hospitalizations in the past year. Appellant also lives with two adult sons.

A Prior Authorization (PA) request for a Personal Care Attendant (PCA) re-evaluation was submitted to MassHealth on September 4, 2024, by Tempus requesting 11 hours/week for one year. On September 10, 2024, MassHealth denied the prior authorization request because the supporting documentation does not evidence that Appellant requires hands-on assistance with at least two activities of daily living as required by MassHealth regulation.

A registered nurse from Appellant's PCA agency, Tempus, evaluated Appellant in her home and completed the nursing evaluation submitted with the PA request. The assessing nurse documented the following: Appellant was observed ambulating independently with adaptive equipment, performing transfers on/off furniture and toilet, performing all grooming tasks independently except for applying lotion to her feet, dressing and undressing including donning and doffing her socks, and feeding herself with eating utensils. The assessing nurse also documented that Appellant was independent with all bladder/bowel care, hygiene and clothing management, insulin injections, and glucose monitoring.

The Masshealth representative testified that the request sought assistance with bathing as Appellant self-reported that she requires assistance with washing hard to reach areas; however, she was observed to be able to reach her own feet while seated and being independent for transferring in and out of a regular tub, transferring on/off shower chair, (self-reports need for assistance with setting up shower chair in tub as observed) and was observed to wash self, but needed assistance with cleaning up bathing area afterwards.

The request also sought time for assistance with applying lotion to Appellant's feet. According to the Masshealth representative, there is no diagnosis to support the medical necessity for applying lotions and there is no documentation indicating the Appellant cannot do this herself where she has been observed being able to reach her feet and to put on and remove her own socks.

Lastly, the request sought time to assist with filling a weekly pill planner and administering medications. Appellant self-reported needing to have the pills given to her in hand due to an observed minor bilateral hand tremor. According to Masshealth, the evaluation also indicates that Appellant has been taking her own insulin with meals and monitoring her blood sugar, since being diagnosed with diabetes in 2003. The Masshealth representative added that there is no evidence of impairment to fine or gross motor control.

The Masshealth representative suggested that Appellant may benefit from a different program such as the adult foster care program that she had in the past.

Appellant appeared on her own behalf and testified that her son administers her insulin and checks her blood sugar. She also described having a difficult time putting on her socks during the nurse's assessment. Appellant described how she had been seated in a low chair and when she stood up, she became dizzy and fell. She generally denied being able to do the activities discussed by the MassHealth representative.

Findings of Fact

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

1. Appellant was initially authorized to receive PCA services in 2023.
2. Appellant had been approved for 11 hours per week for the period on and between September 18, 2023, and October 17, 2024.
3. At that time, Appellant also had in place Visiting Nurse services twice weekly, physical and occupational therapy each twice weekly as well as adult foster care personal assistance on and between June 2, 2023, and June 1, 2024.
4. Documentation accompanying the PA request reveals Appellant to be a woman in her early [REDACTED] with diagnoses of insulin dependent diabetes since 2003, hypertension and GERD.
5. Appellant has a history of gastroenteritis, colitis, acute respiratory failure/hypoxia, pneumonia, ketoacidosis and heart attack.

6. Appellant has not had any hospitalizations in the past year. Appellant also lives with two adult sons.
7. A Prior Authorization (PA) request for a Personal Care Attendant (PCA) re-evaluation was submitted to MassHealth on September 4, 2024, by Tempus requesting 11 hours/week for one year.
8. On September 10, 2024, MassHealth denied the prior authorization request because MassHealth determined that the supporting documentation did not evidence that Appellant requires hands-on assistance with at least two activities of daily living.
9. A registered nurse from Appellant's PCA agency, Tempus, evaluated Appellant in her home and completed the nursing evaluation submitted with the PA request.
10. The assessing nurse documented the following: Appellant was observed ambulating independently with adaptive equipment, performing transfers on/off furniture and toilet, performing all grooming tasks independently except for applying lotion to her feet, dressing and undressing including donning and doffing her socks, and feeding herself with eating utensils.
11. The assessing nurse also documented that Appellant was independent with all bladder/bowel care, hygiene and clothing management, insulin injections, and glucose monitoring.
12. The PA request sought assistance with bathing as Appellant self-reported that she requires assistance with washing hard to reach areas; however, she was observed to be able to reach her own feet while seated and being independent for transferring in and out of a regular tub, transferring on/off shower chair, (self-reports need for assistance with setting up shower chair in tub as observed) and was observed to wash self, but needed assistance with cleaning up bathing area afterwards.
13. The request also sought time for assistance with applying lotion to Appellant's feet.
14. There is no diagnosis to support the medical necessity for applying lotions to Appellant's feet and there is no documentation indicating the Appellant cannot do this herself.
15. The PA request sought time to assist with filling a weekly pill planner and administering medications.
16. Appellant self-reported needing to have the pills given to her in hand due to an observed minor bilateral hand tremor.

17. Appellant has been taking her own insulin with meals and monitoring her blood sugar, since being diagnosed with diabetes in 2003.

18. There is no evidence that Appellant has an impairment of fine or gross motor control.

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)). On this record, Appellant has failed to meet her burden.

At hearing, the Masshealth representative showed how the functional assessment, based on an in-home personal evaluation performed by a registered nurse, did not comport with the claim that Appellant requires assistance with bathing, grooming and medication administration. Appellant provided no objective evidence whatsoever to support her claims. Instead, she merely offered her own testimony disagreeing with the nurse's evaluation and MassHealth's determination. This is not sufficient to establish the preponderance of evidence needed to conclude that MassHealth's action was based on an error of fact and/or law.

Appellant has not met her burden of showing that she requires hands-on assistance with at least two activities of daily living, accordingly, Masshealth correctly denied the request to re-authorize PCA services (130 CMR 422.403(C)(3) and 130 CMR 422.410(A)).

For the foregoing reasons, the appeal is denied

Order for MassHealth

Remove AID PENDING.

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.

Kenneth Brodzinski
Hearing Officer
Board of Hearings

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