

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Dismissed in part; Denied in part	Appeal Number:	2414586
Decision Date:	12/20/2024	Hearing Date:	10/24/2024
Hearing Officer:	Scott Bernard		

Appearance for Appellant:



Appearance for MassHealth:


Robin Brown (Optum) OTR/L *via* telephone

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

Appeal Decision:	Dismissed in part; Denied in part	Issue:	Prior Authorization - Personal Care Attendant (PCA) Services
Decision Date:	12/20/2024	Hearing Date:	10/24/2024
MassHealth's Rep.:	Robin Brown OTR/L	Appellant's Rep.:	
Hearing Location:	Quincy Harbor South	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 8, 2024, MassHealth approved the appellant's PA request for PCA services with modifications. (See 130 CMR 422.410(A)(2),(4),(5); 450.204(A)(1); and Exhibit (Ex.) 1; Ex. 6, pp. 3-5). The appellant filed this appeal in a timely manner on September 23, 2024. (See 130 CMR 610.015(B) and Ex. 2). Modification of a PA request for PCA services is valid grounds for appeal. (See 130 CMR 610.032).

Action Taken by MassHealth

MassHealth approved the appellant's request for PCA services with modifications.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 422.410(A)(2),(4),(5); and 450.204(A)(1) in modifying the request for PCA services.

Summary of Evidence

MassHealth was represented by a registered occupational therapist and a clinical appeals reviewer, the appellant spoke on her own behalf through an interpreter and was assisted by her daughter and a representative from the Boston Center for Independent Living. All participants in the hearing attended by telephone.

The MassHealth representative began by stating the following. According to the documents that were submitted for review, the appellant is an individual over the age of 65 years old, with diagnoses that include dementia, right cerebrovascular accident (stroke) resulting in left hemiparesis, a seizure disorder, diabetes mellitus, hypertension, gastroesophageal reflux disease (GERD), vitamin D deficiency, anemia, and hyperlipidemia (high cholesterol). (Testimony; Ex. 6, pp. 7-8). The appellant is prone to imbalance and frequent falls, is rarely able to stand, is non-ambulatory, experiences decreased strength and function in the hands, lower back pain (LBP), and leg spasms, and requires assistance from a live-in personal care aide (PCA). (Testimony; Ex. 6, pp. 7-8).

Boston Center for Independent Living (the PCM agency) submitted a prior authorization reevaluation request for PCA services to MassHealth on August 7, 2024. (Testimony). The PCM agency requested requesting 85 hours and 30 minutes of PCA services per week for one year. (Testimony; Ex. 1; Ex. 6, pp. 3-5). In a notice dated August 8, 2024, MassHealth modified the request to 79 four and 15 minutes per week for dates of service beginning September 9, 2024 and ending September 8, 2025. (Testimony; Ex. 1; Ex. 6, pp. 3-5). There were four modifications made based on the MassHealth regulations. (Testimony; Ex. 1; Ex. 6, pp. 3-5).

After considering the testimony of the appellant and her daughter, the MassHealth representative decided to overturn the modifications to assistance with passive range of motion exercises (PROM) and undressing and approve these activities of daily living (ADLs) in the times requested. (Testimony; Ex. 6, pp. 13, 18).

The following two modifications, however, remained in dispute at the end of the hearing:

Dressing

The PCM agency requested 30 minutes per day, seven days a week and (separately 15 minutes per day for assistance with dressing. (Testimony; Ex. 6, p. 18). In support of this request, the PCM agency wrote “As with all her care needs, she is not able to physically participate in her ADLs, she does not choose her attire - the PCA does that. In AM: after her morning shower, etc. PCA dresses her appropriately for the day. In PM: PCA undressed her and redressed her in her bed clothes prior to HS, after PM wash up. Again - she is physically unable to participate d/t her multiple limitations. ” (Ex. 6, p. 18). MassHealth modified the time requested to 30 minutes per day stating, “the time you requested for assistance with dressing is longer than ordinarily required for someone

with your physical needs.” (Ex. 1; Ex. 6, p. 4).

The MassHealth representative explained that MassHealth follows the "Time for Tasks" guidelines, a published document that outlines the standard time allocated for various tasks. (Testimony). For individuals who are fully dependent on assistance with dressing, the guidelines typically approve 30 minutes per day. (Testimony). Based on her clinical experience as an occupational therapist, she stated that 30 minutes should be adequate for helping a fully dependent individual get dressed in the morning and change into pajamas or night clothes in the evening, provided the caregiver is experienced and knowledgeable in assisting with these tasks. (Testimony).

The appellant's representative confirmed with the appellant and her daughter that the appellant required partial assistance with dressing and undressing due to incontinence. (Testimony). The appellant's daughter explained that the appellant experiences frequent incontinence, both urinary and bowel, and cannot manage these issues independently. (Testimony). She needs help changing clothes, pads, and sheets, as they often become wet. (Testimony). The appellant also mentioned that the increased dosage of Metformin for diabetes treatment is causing more frequent urination. (Testimony).

The MassHealth representative stated that the issue of toileting was not in dispute, as 12 episodes for toileting had already been approved, and the time requested for changes of clothes due to incontinence was included in that approval. (Testimony). The appellant's representative clarified that the discussion was not about bladder care but about partial changes of clothes due to incontinence and accidents. (Testimony). The MassHealth representative responded that the time allocated for dressing and undressing should be sufficient, especially for someone who is totally dependent on assistance. (Testimony). The appellant's representative reiterated that there is an unpredictable second instance of partial dressing and undressing due to incontinence, which could happen at any time during the day. (Testimony).

Other Healthcare Needs (Vital Sign Assessment)

The PCM agency requested 15 minutes per day, seven days a week for assistance with checking the appellant's vital signs. (Testimony; Ex. 6, p. 25). As an example, the PCM agency stated that on June 25, 2024, the PCA checked the appellant's vital signs in the morning, recording a temperature of 90°F, pulse of 68 bpm, respirations of 20 breaths per minute, blood pressure of 124/78 mmHg, blood sugar of 130 mg/dL, and oxygen saturation (SpO2) of 96%. (Ex. 6, p. 25). MassHealth modified the time requested to 10 minutes per day stating, “the time you requested for assistance with medications or another health-related need is longer than ordinarily required for someone with your physical needs.” (Ex. 1; Ex. 6, p. 4).

The MassHealth representative emphasized that MassHealth covers only the hands-on time for these tasks, not any waiting time involved. (Testimony). She provided a breakdown of the time typically needed to assess each vital sign according to the time for task tool:

- Temperature: One minute (using a thermometer on the forehead or under the tongue);
- Pulse: Less than one minute (if using a machine; about 30 seconds manually);
- Respiration: 15-20 seconds, then multiplied by four for the per-minute rate;
- Blood pressure: one two minutes for cuff placement, plus another minute for inflating the cuff;
- Blood sugar: three minutes to check blood sugar levels;
- Oxygen levels: Less than one minute to clip the pulse oximeter onto the finger. (Testimony).

Altogether, the total time for these tasks came to 8 minutes, and MassHealth approved 10 minutes. (Testimony).

The appellant's representative asked the appellant's daughter if more than 10 minutes was needed for checking vital signs, to which the daughter confirmed that the process takes 15 minutes. (Testimony). The appellant's daughter explained that, due to the higher dosage of Metformin, the doctor had advised checking vital signs twice daily—once in the morning and again before dinner. (Testimony). The appellant's daughter clarified that they specifically refer to checking blood sugar but acknowledged that other vital signs are checked as well.

The MassHealth representative responded, reiterating that the 10-minute approval covers all vital signs, not just blood sugar. (Testimony). The appellant's representative followed up, questioning if the total time for all vital signs ever exceeded the 10-minute approval. (Testimony). The appellant's daughter explained that, because the process is done carefully for the fragile appellant, it typically takes about 15 minutes, though they do not strictly track the time. (Testimony). The appellant's representative disputed the 10-minute approval, maintaining that 15 minutes were needed, and pointed out a 5-minute discrepancy. (Testimony).

Findings of Fact

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

1. The appellant is an individual over the age of 65 years old, with diagnoses that include dementia, right cerebrovascular accident (stroke) resulting in left hemiparesis, a seizure disorder, diabetes mellitus, hypertension, gastroesophageal reflux disease (GERD), vitamin D deficiency, anemia, and hyperlipidemia (high cholesterol). (Testimony; Ex. 6, pp. 7-8).
2. The appellant is prone to imbalance and frequent falls, is rarely able to stand, is non-ambulatory, experiences decreased strength and function in the hands, lower back pain (LBP), and leg spasms, and requires assistance from a live-in personal care aide (PCA). (Testimony; Ex. 6, pp. 7-8).

3. The PCM agency submitted a prior authorization reevaluation request for PCA services to MassHealth on August 7, 2024. (Testimony).
4. The PCM agency requested requesting 85 hours and 30 minutes of PCA services per week for one year. (Testimony; Ex. 1; Ex. 6, pp. 3-5).
5. In a notice dated August 8, 2024, MassHealth modified the request to 79 four and 15 minutes per week for dates of service beginning September 9, 2024 and ending September 8, 2025. (Testimony; Ex. 1; Ex. 6, pp. 3-5).
6. There were four modifications made based on the MassHealth regulations. (Testimony; Ex. 1; Ex. 6, pp. 3-5).
7. After considering the testimony of the appellant and her daughter, the MassHealth representative decided to overturn the modifications to assistance with PROM and undressing and approve these activities of daily living (ADLs) in the times requested. (Testimony; Ex. 6, pp. 13, 18).
8. The following modifications remained in dispute at the end of the hearing:

A. Dressing

1. The PCM agency requested 30 minutes per day, seven days a week and (separately 15 minutes per day for assistance with dressing. (Testimony; Ex. 6, p. 18).
2. In support of this request, the PCM agency wrote “As with all her care needs, she is not able to physically participate in her ADLs, she does not choose her attire - the PCA does that. In AM: after her morning shower, etc. PCA dresses her appropriately for the day. In PM: PCA undressed her and redressed her in her bed clothes prior to HS, after PM wash up. Again - she is physically unable to participate d/t her multiple limitations.” (Ex. 6, p. 18).
3. MassHealth modified the time requested to 30 minutes per day stating, “the time you requested for assistance with dressing is longer than ordinarily required for someone with your physical needs.” (Ex. 1; Ex. 6, p. 4).
4. Using the time for task guidelines, MassHealth typically approves 30 minutes per day for fully dependent individuals needing dressing assistance, which, according to the MassHealth representative’s experience as an occupational therapist, is sufficient for a knowledgeable caregiver to help with dressing and changing into pajamas. (Testimony).
5. Clothing changes necessitated by episodes of incontinence are covered by the time requested for toileting, which MassHealth approved in full. (Testimony).

B. Other Healthcare Needs (Vital Sign Assessment)

1. The PCM agency requested 15 minutes per day, seven days a week for assistance with checking the appellant's vital signs. (Testimony; Ex. 6, p. 25).
2. As an example, the PCM agency stated that on June 25, 2024, the PCA checked the appellant's vital signs in the morning, recording a temperature of 90°F, pulse of 68 bpm, respirations of 20 breaths per minute, blood pressure of 124/78 mmHg, blood sugar of 130 mg/dL, and oxygen saturation (SpO2) of 96%. (Ex. 6, p. 25).
3. MassHealth modified the time requested to 10 minutes per day stating, “the time you requested for assistance with medications or another health-related need is longer than ordinarily required for someone with your physical needs.” (Ex. 1; Ex. 6, p. 4).
4. MassHealth covers only the hands-on time for vital sign assessments, not any waiting time, with typical times for each task as follows: one minute for temperature, less than one minute for pulse, 15-20 seconds for respiration, one to two minutes for blood pressure, three minutes for blood sugar, and less than one minute for oxygen levels, according to the time for task guidelines. (Testimony).

Analysis and Conclusions of Law

MassHealth may make an adjustment in the matters at issue before or during an appeal period and if the parties' adjustment resolves one or more of the issues in dispute in favor of the appellant, the hearing officer, by written order, may dismiss the appeal in accordance with 130 CMR 610.035 as to all resolved issues, noting as the reason for such dismissal that the parties have reached agreement in favor of the appellant. (130 CMR 610.051(B)). During the course of the hearing, the MassHealth representative overturned the modifications to assistance with PROM and undressing and approved the times for these ADLs as requested. As this adjustment resolves the dispute in favor of the appellant with regard to this IADL, the appeal is hereby DISMISSED.

The PCM agency must request prior authorization from the MassHealth agency as a prerequisite to payment for PCA services. (130 CMR 422.416(A)). Prior authorization determines only the medical necessity of the authorized service. (*Id.*). MassHealth covers activity time performed by a PCA in aiding with ADLs and Instrumental ADLs. (130 CMR 422.411(A)). ADLs encompass essential tasks for an individual's self-care, including physically assisting a member with taking physician-prescribed medications, dressing and undressing, and performing PROM. (130 CMR 422.410(A)(2),(4)).

MassHealth does not pay a provider for services that are not medically necessary and may impose sanctions on a provider for prescribing a service where such service is not medically necessary. (130 CMR 450.204). A service is medically necessary if, amongst other things, 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. (130 CMR 450.204(A)(1)).

The preponderance of the evidence does not support a medical necessity for the time requested for dressing. The PCM agency requested 30 minutes per day, seven days a week, and an additional 15 minutes per day, seven days a week, but MassHealth modified the request to 30 minutes per day, stating that the time requested exceeded what is typically required for someone with the appellant's physical needs. According to MassHealth's time for task guidelines, 30 minutes per day is generally approved for individuals fully dependent on dressing assistance, which, based on the MassHealth representative's experience as an occupational therapist, is adequate for a knowledgeable caregiver to assist with dressing and changing into pajamas. The MassHealth representative also clarified that if the requested time was due to increased incontinence, it should have been requested as part of bladder or bowel care. The appellant could not provide justification for requiring additional dressing time beyond the incontinence-related concerns.\

A preponderance of the evidence also does not support the medical necessity of the time requested for assistance with vital sign assessment. The PCM agency requested 15 minutes per day, seven days a week for assistance with checking the appellant's vital signs. MassHealth modified this to 10 minutes per day. The MassHealth representative explained that according to the time for task tool, the sub-elements of this task should take no more than eight minutes in total on average. The time does not include any time required for waiting. Again, the appellant could provide no justification for approving more time for this activity.

For the above reasons, with regard to dressing and vital sign assessment, the appeal is DENIED.

Order for MassHealth

If it has not done so already, MassHealth should issue a new determination approving the time for PROM and undressing to the amount the PCM agency requested. The effective date of this should be from the beginning of the PA period.

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.

Scott Bernard
Hearing Officer
Board of Hearings

cc:

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