

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Approved in part Denied in part	Appeal Number:	2414925
Decision Date:	1/21/2025	Hearing Date:	11/15/2024
Hearing Officer:	Kenneth Brodzinski		

Appearance for Appellant:



Appearance for MassHealth:

Kelly Rayen, RN

Interpreter: Spanish



*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:	Approved in part Denied in part	Issue:	Prior Authorization - PCA
Decision Date:	1/21/2025	Hearing Date:	11/15/2024
MassHealth's Rep.:	Kelly Rayen, RN	Appellant's Rep.:	Mother
Hearing Location:	Quincy		

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 4, 2024, MassHealth modified a request for prior authorization (PA) for Personal Care Attendant (PCA) services by denying some of the requested time for service (Exhibit A). Appellant filed for this appeal in a timely manner on September 26, 2024 seeking approval for the denied time (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).

Action Taken by MassHealth

MassHealth modified a request for prior authorization for PCA services by denying some of the requested time for service.

Issue

The appeal issue is whether MassHealth properly applied the controlling regulation(s) to accurate facts when it modified Appellant's request for prior authorization for PCA services by denying some of the requested time for service.

Summary of Evidence

Both parties appeared by telephone. MassHealth was represented by a Registered Nurse - clinical appeals reviewer. Appellant, a minor child, was represented by his mother who testified with the assistance of a Spanish interpreter. Prior to hearing, MassHealth filed a packet of documents including, *inter alia*, a copy of the subject PA request and supporting nurse's PCA evaluation (collectively, Exhibit B).

The MassHealth representative testified that according to documentation submitted with the PA request, Appellant is [REDACTED] with primary diagnoses of: cerebral palsy, global developmental delay, microcephaly, seizure disorder, dual incontinence, wears diapers, blindness, non-verbal and is an aspiration risk. Appellant is wheelchair dependent and dependent with all activities requiring 24/7 care. He lives with his father who works full time and mother who is home with two disabled children.

The subject PA request was submitted to MassHealth on August 30, 2024 seeking an adjustment to the current year's authorization of 7.5 hours per week. Appellant is seeking to increase PCA assistance by 16.50 hours per week for a total of 24 hours/week for the remainder of the current PA period effective August 30, 2024 to January 24, 2025. MassHealth modified the request on September 4, 2024, authorizing 13 hours and 30 minutes/week effective August 30, 2024 to January 24, 2025.

MassHealth denied some or all of the time requested relative to 5 areas of assistance and based its determinations on regulations 130 CMR 422.410: Activities of Daily Living and Independent Activities of Daily Living and 130 CMR 450.204(A)(1)(2) and (B): Medical Necessity. MassHealth modified time requested for assistance with PM quick wash; eating; bladder care; bowel care; and bus transfers.

After exchanging testimony, MassHealth agreed to restore time requested to assist with bowel care. Appellant indicated she did not dispute the modification made to time to assist with PM quick wash and bladder care. By the end of the hearing, only the modifications made to time to assist with eating and bus transfers remained in dispute.

Eating:

The MassHealth representative testified that all time requested to assist with eating was denied. According to MassHealth, the supporting documentation indicates that Appellant requires assistance with eating and taking in fluids and is at risk for choking and aspiration during these activities. According to MassHealth, these risks raise the level of assistance to a skilled task which is beyond the capacity of a PCA. The task is also a customary parental responsibility, i.e., a task that would be performed by a parent even in the absence of any disability or limitations.

Appellant's mother testified that she has another child who also has autism and requires assistance with eating. She described how both children need to eat slowly and carefully to avoid choking. The mother testified that the PCA assists Appellant to eat while she assists her other child with eating.

Bus transfers:

The MassHealth representative testified that Appellant requested 10 minutes, twice per day, five days per week to assist with getting on and off the school bus. MassHealth denied all time requested for assistance with bus transfers on the grounds that it is a parental responsibility. The MassHealth representative also testified that the amount of time requested is excessive insofar as PCA time is not compensable for waiting, coaching and/or cuing.

Appellant's mother acknowledged that PCA time is not granted for waiting. She testified that the PCA is needed to help assemble and disassemble Appellant's wheelchair while she tends to helping her autistic daughter to get on and off the bus.

Post hearing, a review of the written documentation revealed the following that is pertinent to the dispute over the bus transfers. The PA request includes a copy of a letter drafted by a registered nurse dated August 26, 2024 (Exhibit B, page 6). The letter describes the assistance Appellant requires throughout the day. Under "School transfer" the nurse notes that Appellant lives on the first floor and there are eight outside steps to get from his home to ground level. The PCA carries Appellant from the home to the bus and then goes back to the house to retrieve the wheelchair and carries it from the home to the bus. The nurse also notes these transfers are in addition to the daily indoor transfers requested under mobility (Id).

Findings of Fact

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

1. Appellant is [REDACTED] with primary diagnoses of: cerebral palsy, global developmental delay, microcephaly, seizure disorder, dual incontinence, wears diapers, blindness, non-verbal and is an aspiration risk.
2. Appellant is wheelchair dependent and dependent with all activities requiring 24/7 care.
3. Appellant lives with his father who works full time and mother who is home with two disabled children.
4. The subject PA request was submitted to MassHealth on August 30, 2024 seeking an

adjustment to the current year's authorization of 7.5 hours per week.

5. The PA request seeks to increase PCA assistance by 16.50 hours per week for a total of 24 hours/week for the remainder of the current PA period effective August 30, 2024 to January 24, 2025.
6. MassHealth modified the request on September 4, 2024, authorizing 13 hours and 30 minutes/week effective August 30, 2024 to January 24, 2025.
7. MassHealth denied some or all of the time requested relative to the following 5 areas of assistance: PM quick wash; eating; bladder care; bowel care; and bus transfers.
8. After exchanging testimony, MassHealth agreed to restore time requested to assist with bowel care.
9. Appellant indicated she did not dispute the modification made to time to assist with PM quick wash and bladder care.
10. By the end of the hearing, only the modifications made to time to assist with eating and bus transfers remained in dispute.
11. MassHealth denied all time requested to assist with eating.
12. Appellant requires assistance with eating and taking in fluids and is at risk for choking and aspiration during these activities.
13. Appellant has a minor sister who also has autism and requires assistance with eating.
14. Both children need to eat slowly and carefully to avoid choking.
15. The PCA assists Appellant to eat while Appellant's mother assists her other child with eating.
16. Appellant requested 10 minutes, twice per day, five days per week to assist with getting on and off the school bus.
17. MassHealth denied all time requested for assistance with bus transfers on the grounds that it is a parental responsibility.
18. The PCA helps assemble and disassemble Appellant's wheelchair while Appellant's mother tends to helping her autistic daughter to get on and off the bus.
19. Appellant lives on the first floor and there are eight outside steps to get from his home to

ground level (Exhibit B, page 6).

20. The PCA carries Appellant from the home to the bus and then goes back to the house to retrieve the wheelchair and carries it from the home to the bus.

21. The bus transfers are in addition to the daily indoor transfers requested under mobility

Analysis and Conclusions of Law

Eating – modification reversed:

A parent is not customarily required to assist [REDACTED] child with the physical act of eating and taking in liquids. The need to assist Appellant with eating arises from his physical conditions and limitations; therefore, it is medically necessary (130 CMR 450.204(A)). If a parent can gain the skills necessary to assist a child at risk for choking and aspiration with eating, as MassHealth alluded at hearing, then there is no reason the same cannot be done for a PCA. MassHealth did not assert that the requested amount of time to assist with eating was excessive. Accordingly, the time requested is approved.

Bus transfers – modification reversed:

A parent is not customarily required to physically assist a [REDACTED] child with the physical act of getting on and off a school bus. The need to assist Appellant with this activity arises from his physical conditions and limitations; therefore, it is medically necessary (130 CMR 450.204(A)).

MassHealth contested the amount of time requested to assist with bus transfers, but did not offer a specific basis for why it determined 10 minutes to be excessive. According to the mother, the bus transfer includes time to disassemble and assemble Appellant's wheelchair. The nurse's letter accompanying the request indicates that the bus transfer also involves the PCA carrying Appellant from his home, down eight steps to the bus and then going back to the home to retrieve the wheelchair and carry it out to the bus.

The MassHealth PCA program uses a Time For Task Tool to help assess time needed to physically assist a member with a particular covered task. The level of assistance is based on the level of assistance required. According to the Tool, a person such as Appellant, who is totally dependent for transfers, would require 10 minutes per transfer (*Time-For-Tasks Guidelines for the MassHealth PCA Program* (11-16-11) at page 1 of 14). Given this guidance, and the fact that the bus transfers involve not only physically carrying Appellant between his home and the bus, but also a separate trip to retrieve his wheelchair, the requested 10 minutes is well supported.

Order for MassHealth

Restore all time requested for assistance with bowel care as agreed at hearing. Restore all time requested to assist with eating and bus transfers pursuant to this decision. Those modifications that were not disputed, remain in place.

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 the Enrollment Center gives you any problems with implementing 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.

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