

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2415450
Decision Date:	12/5/2024	Hearing Date:	11/12/2024
Hearing Officer:	Alexandra Shube		

Appearances for Appellant:



Appearance for MassHealth:

Via telephone:
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:	12/5/2024	Hearing Date:	11/12/2024
MassHealth's Rep.:	Kelly Rayen, RN	Appellant's Reps.:	[REDACTED]
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 September 20, 2024, MassHealth denied the appellant's prior authorization request for personal care attendant (PCA) services because he does not require physical assistance with two or more activities of daily living (ADLs) (Exhibit 1). The appellant filed this appeal in a timely manner on October 8, 2024 (see 130 CMR 610.015(B) and Exhibit 2). Denial of assistance is valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied the appellant's prior authorization for PCA services.

Issue

The appeal issue is whether MassHealth was correct in determining that the appellant does not qualify for PCA services because he does not require physical, hands-on assistance with at least two ADLs.

Summary of Evidence

All parties appeared at hearing via telephone. MassHealth was represented by a registered nurse/clinical appeals reviewer. The appellant appeared at hearing with his mother and a counselor from his personal care management (PCM) agency.

The appellant is an adult male between the ages of 21 and 65 who has primary diagnoses of schizophrenia, bipolar disorder, psychosis, ADHD, depression, autism, and paranoia. He was recently hospitalized for a change in mental status, experiencing both audio and visual hallucinations as well as increased depression and paranoia. An initial evaluation for PCA services was submitted by the appellant's Personal Care Management (PCM) agency, Independence Associates, Inc., on September 10, 2024. The request for services sought assistance with the following ADLs: bathing, grooming, and medication assistance. The request also sought assistance with the following instrumental activities of daily living (IADLs): meal preparation, laundry, housekeeping, shopping, and transportation to medical appointments. On September 20, 2024, MassHealth denied the request because the clinical record indicated that the appellant did not require hands-on, physical assistance with at least two ADLs. The MassHealth representative explained that bathing and grooming are one ADL category. She elaborated that in order to qualify for PCA assistance a MassHealth member must require hands-on physical assistance with at least two of the following ADLs: mobility/transfers, bathing/grooming, dressing/undressing, toileting, eating, passive range of motion, and assistance with medications or other health-related needs.

The Occupational Therapy Functional Status Report (hereinafter, the OT assessment), which was part of the initial evaluation, shows that the appellant is independent with medications, mobility, passive range of motion, toileting, dressing, eating, and other healthcare needs. He can get in and out of bed, in and out of the tub/shower, and on and off the toilet by himself. He requires minimum assist with bathing and maximum assist with grooming. He is a maximum assist with his IADLs, including meal preparation, housekeeping, laundry, and shopping. He is not homebound and is able to leave home without a taxing effort. He gets rides from family to run errands, shop, and socialize.

The comments in the request for PCA assistance with bathing indicate that the PCA assists with washing, rinsing, and drying hard to reach areas. The appellant experiences drowsiness and dizziness related to use of antipsychotic medications. The notes also state that the appellant requires redirection throughout the shower to stay focused and ensure thoroughness. The appellant has trouble initiating and sequencing tasks. MassHealth explained that cueing, prompting, supervision, guiding, or coaching are not covered by the PCA program. Additionally, she noted that the appellant is physically capable of doing much of his own care, such as dressing and toileting himself. If he can physically do those tasks, he could physically bathe himself, possibly with the help of a shower chair. As for grooming, the comments indicate he needs assistance with nail care and shaving.

The comments in the request for PCA assistance with medications indicate that the PCA helps administer daily medications by placing the pill in the appellant's hand, providing fluids, and ensuring compliance. The notes indicate that he lacks insight and judgment into disease process and is at risk for rehospitalization and decompensation with medication non-compliance. The MassHealth representative stated that the appellant is physically capable of taking his own medication and ensuring compliance is supervision which is not covered by the PCA program.

The appellant's mother testified that the appellant has mental health issues and he is not going to get any better. She administers the appellant's medications and makes sure that he takes it. If he does not take his medications, he can deteriorate. She acknowledged that physically, he is capable of taking his own medications, but if he is not prompted, he would skip them. As to bathing, she must be in the bathroom with him because when the shower curtain closes, it triggers his disabilities and mental health issues. He gets dizzy spells as a result and it is a safety issue. He does not have the concentration to complete the shower and needs verbal cues to wash. His mother washes his back and hair, but he can dry himself. She explained that he does not have the strength to bathe himself. The appellant does not have a shower chair. The appellant's mother has to cut his nails because he does not have the body strength to do so. She also does his meal preparation, grocery shopping, and taking him to appointments.

The MassHealth representative explained that meal preparation, shopping, and transportation to appointments are IADLs. To have those covered by the PCA program the appellant would need to qualify for the PCA program by needing physical assistance with at least two ADLs. She emphasized that bathing and grooming are one ADL category. Additionally, according to the OT assessment, the appellant has fine motor skills and is physically capable of taking his own medications. Cueing, guiding, prompting, and supervising the appellant to take his medications is not covered by the PCA program. She explained that the Adult Foster Care (AFC) program would be a better fit for the appellant because it allows for cueing and supervision. She provided the appellant with the number to the ombudsman to get more information about the AFC program.

Findings of Fact

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

1. The appellant is an adult male between the ages of 21 and 65 who has primary diagnoses of schizophrenia, bipolar disorder, psychosis, ADHD, depression, autism, and paranoia (Testimony and Exhibit 5).
2. An initial evaluation for PCA services was submitted on September 10, 2024 seeking PCA assistance with bathing, grooming, medication assistance, meal preparation, laundry,

housekeeping, shopping, and transportation to medical appointments (Testimony and Exhibit 5).

3. On September 20, 2024, MassHealth denied the request because the clinical record indicated that the appellant did not require hands-on physical assistance with at least two ADLs (Testimony and Exhibits 1 and 5).
4. The appellant experiences drowsiness and dizziness in the shower and requires supervision for safety reasons. He also requires cueing and prompting to stay on task in the shower (Testimony and Exhibit 5).
5. The appellant requires PCA assistance with shaving and nail care (Testimony and Exhibit 5).
6. The OT assessment shows that the appellant is physically capable of taking his own medication; however, his mother provides cueing, prompting, and supervision to ensure compliance due to mental health issues (Testimony and Exhibit 5).

Analysis and Conclusions of Law

MassHealth will pay for 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

- (1) The PCA services are authorized for the member in accordance with 130 CMR 422.416 [which governs the prior authorization requirements].
- (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 PCM agency, requires physical assistance with two or more of the following ADLs as defined in 130 CMR 422.410(A).***
- (4) The MassHealth agency has determined that the PCA services are medically necessary.²

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 MassHealth, through its prior authorization process, determines whether a requested 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

See 130 CMR 422.403(C) (emphasis added).

130 CMR 420.410(A) defines ADLs as follows:

- (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.

130 CMR 422.410(A) (emphasis added).

There are also certain services that MassHealth will not cover:

- (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;**
- (D) PCA services provided to a member while the member is a resident of a nursing facility or other inpatient facility;
- (E) PCA services provided to a member during the time a member is participating in a community program funded by MassHealth including, but not limited to, day habilitation, adult day health, adult foster care, or group adult foster care;
- (F) services provided by family members, as defined in 130 CMR 422.402; or
- (G) surrogates, as defined in 130 CMR 422.402.

See 130 CMR 422.412 (emphasis added).

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).

On review of the evidence submitted in the hearing record and in accordance with the regulations, MassHealth did not err in denying the appellant's prior authorization request. MassHealth's regulations require that a person require physical assistance with at least two ADLs (not IADLs) to qualify for the PCA program. The appellant requires some assistance, however, it is primarily in the form of cueing, supervision, prompting, and guiding. He is physically capable of doing almost all his ADLs by himself. The OT assessment, which was part of the initial evaluation, shows that he is independent with medications, mobility, passive range of motion, toileting, dressing, eating, and other healthcare needs. He can get in and out of bed, in and out of the tub/shower, and on and off the toilet by himself. He requires minimum assist with bathing and maximum assist with grooming. He is a maximum assist with his IADLs, including meal preparation, housekeeping, laundry, and shopping. For purposes of ADLs, bathing and grooming is considered one category, not two separate ADLs.

Based on documentation and testimony, the appellant is physically capable of taking his medications, but requires supervision, cueing, and prompting to ensure that he takes them. Pursuant to 130 CMR 422.412(C), assistance provided in the form of cueing, prompting, supervision, guiding, or coaching is not covered by MassHealth as part of the PCA program. Even if the appellant requires physical assistance with bathing and grooming, that is only one ADL. As such, the appellant does not require hands-on assistance with at least two ADLs.³

For these reasons, the MassHealth decision was correct and the appeal is denied.

Order for MassHealth

None.

³ At hearing, the MassHealth representative explained that other programs, such as Adult Foster Care which covers supervision and cueing, would be more appropriate for the appellant.

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.

Alexandra Shube
Hearing Officer
Board of Hearings

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