Office of Medicaid
BOARD OF HEARINGS

Appellant Name and Address:

[redacted]

Appeal Decision:	Denied	**Appeal Number:**	2415866
Decision Date:	1/16/2025	**Hearing Date:**	11/25/2024
Hearing Officer:	Casey Groff, Esq.		

Appearance for Appellant:
[redacted]

Appearance for Respondent/MCC:
From Fallon Health:
Kay George, RN, Appeals Nurse;
Cynthia Foss, RN, Manager, Clinical Integrations;
Carla Haynes, RN, Nurse Case Manager, Clinical Integrations;
Noah Jones, BOH Coordinator;
John O'Brien, ACO Appeals Supervisor

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:**	SCO; Denial of Level 1 Appeal; PCA Services
Decision Date:	1/16/2025	**Hearing Date:**	11/25/2024
MCC Reps.:	Kay George, RN, Fallon Health, *et*. *al*.	**Appellant's Rep.:**	Daughter/ARD
Hearing Location:	Board of Hearings, Remote	**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 level 1 appeal determination notice dated 8/9/24, Fallon Health, a Senior Care Options (SCO) program and managed care contractor (MCC) for MassHealth, notified Appellant that it upheld its partial denial of requested personal care attendant (PCA) services. *See* Exh. 1. On 10/11/24, Appellant's daughter filed a timely with the Board of Hearings (BOH); however, the filing did not identify the notice that Appellant sought to appeal, nor did it include documentation to establish Appellant's daughter had authority to file the appeal on Appellant's behalf. *See* Exhibit 2. On 10/17/24, BOH dismissed the request for hearing under 130 CMR §§ 610.034, 610.035. *See* Exh. 3. On 10/22/24, Appellant provided BOH with an updated and signed fair hearing request, designating his daughter as his appeal representative, and submitted documentation of the 8/9/24 action being appealed. *See* Exhs. 5, 6, and 10. As an adverse appeal determination by an MCC is valid grounds for appeal,[1] BOH, on receipt of the additional information, vacated the dismissal and

[1] Fair Hearing regulations at 130 CMR 610.032(B) set forth the specific bases under which any enrollee of a managed care contractor, including SCO members, may request a fair hearing. Grounds for appeal include, but are not limited to the managed care provider's failure to provide services in a timely manner, a decision to deny or provide limited authorization of a requested service; and a decision to reduce, suspend or terminate a previous authorization for a service. Any member that receives an adverse coverage determination by the SCO and exhausts all remedies through its internal appeal process, may request a fair hearing with the Board of Hearings

scheduled a hearing to take place on 11/25/24. *See* Exh. 7 and 130 CMR 610.032(B).

Action Taken by SCO

Through a level 1 internal appeal, Fallon Health, in its capacity as a MCC with MassHealth, upheld its initial determination to partially deny Appellant's request for PCA services.

Issue

The appeal issue is whether Fallon, in its capacity as a managed care contractor for MassHealth, erred in its partial denial of Appellant's request for PCA services.

Summary of Evidence

Representatives for Respondent, Fallon Health (Fallon), appeared at the hearing by telephone. Through testimony and documentary submissions, the Fallon representatives presented the following evidence: Appellant is over the age of 65 and is a MassHealth beneficiary enrolled in Fallon's Senior Care Options (SCO) program, referred to as "NaviCare." In operating the SCO program, Fallon is responsible for coordinating and ensuring the provision of medically necessary MassHealth covered benefits to its enrollees.

The Fallon representatives testified that Appellant has been receiving personal care attendant (PCA) services as a covered MassHealth benefit, which is managed through the SCO program. In his last prior authorization (PA) period, which ended on 7/9/24, Appellant had received authorization for 37.75 hours per-week of PCA services.[2] *See* Exh. 11, pp. 40- 47. Appellant has diagnoses of hyperlipidemia, epilepsy, seizure disorder, glaucoma, localized scleroderma, calcification, tachycardia, bladder obstruction, compression of thoracic vertebrae, among other diagnoses. *Id. at 38.* Appellant lives on the first floor of an apartment with his wife. *Id.*

On 7/3/24, a nurse case manager (NCM) for Fallon conducted a PCA re-evaluation of Appellant to determine the level of assistance needed for the upcoming PCA PA period. *Id.* at 34-42. The reevaluation was conducted in-person, at Appellant's home, with his daughter present. *Id.* The NCM documented that on arrival, Appellant was oriented to person, place, time, and situation. *Id.* Based on information reported by Appellant and his daughter, the NCM noted the following: Appellant had not had any recent falls or hospitalizations, although he was recently seen by his

---

under 130 CMR 610.000 *et. seq. See* 130 CMR §§ 610.002, 610.032(B); *see also* 130 CMR 508.010(B). As Appellant received an adverse Level 1 appeal determination by Fallon, he is entitled to a fair hearing. *See* 130 CMR 610.032(B); *see also* M.G.L. c. 118E, § 48,

[2] Documentation indicates that [redacted] is Appellant's PCM agency and [redacted] is the fiscal intermediary. *See* Exh. 11.

PCP for urinary tract infection (UTI) symptoms; his cardiac and respiratory status had been stable since the last review; he has occasional back pain that is managed with Tylenol; he has had no change in vision or hearing, through his vision remained poor with blindness in his right eye; he has had no recent seizure activity since taking Keppra; he reported occasional urine incontinence; he denied gastrointestinal (GI) issues and any ongoing skin issues; and his mood had been stable. *Id.*

Through a notice dated 7/17/24, Fallon informed Appellant that, based on the evaluation and in conjunction with Fallon's Benefit Guideline Eligibility for the PCA Program, it partially approved his request for PCA services, authorizing 32 hours of assistance per-week effective 7/21/24. *Id.* at 6-7; 51. According to the notice, Fallon denied the 5.75 additional hours that had been requested, to account for "tasks that are no longer being performed by your PCA… due to your functional improvement." *Id.* at 6. The denied hours were based on reductions to the time allotted for assistance with transfers, feeding, grooming, bowel care, medication administration, and medical appointment transportation. *Id.* On 7/17/24, Appellant, through his daughter, requested an internal level 1 appeal. *Id.* at 12, *51.*

Pursuant to its internal appeal process, Fallon's medical director and vice presented for utilization management, who is a physician board certified in internal medicine, conducted a review of the initial determination along with the submitted clinical information. *Id.* at 13-14. On appeal, Fallon upheld the initial determination, finding that the documentation submitted did not satisfy MassHealth regulatory criteria governing the PCA program and the guidelines issued thereunder to warrant authorization of the additional 5.75 weekly PCA hours. *Id.* Appellant timely appealed Fallon's level 1 appeal denial to BOH on 10/11/24. *See* Exh. 2. At hearing, the Fallon representatives addressed each category of assistance that had been denied and/or reduced from the preceding PA period, as follows:

1. ***Mobility***

Fallon testified that it reduced Appellant's authorized assistance for mobility from 84 minutes to 70 minutes per-week (broken down as 5 minutes, 2 times per-day, every day). *See* Exh. 11 at 35. Fallon explained that based on the in-person evaluation, Appellant was observed to ambulate and transfer independently without the use of an assistive device in his apartment. It was reported that Appellant requires assistance with transfers in and out of bed. Therefore, the allotted time was intended for the time it takes the PCA to assist with transfers in/out of bed.

2. Medication Assistance

Next, based on the reevaluation, Fallon dropped Appellant's authorized time for assistance with medication assistance from 105 minutes per-week to 70 minutes per-week. In the evaluation, the NCM noted that the allotted time was for the PCA to assist in administering medications to ensure compliance with epilepsy treatment. *Id.* The reduction was based on a review of his current

prescribed medications and dosages, which showed that he was decreased from taking the medication three times per-day to only twice per-day. *Id.*

3. Grooming

Next, Fallon reduced the time authorized for grooming assistance from 175 minutes per-week to 105 minutes per-week, amounting to 15 minutes daily. *Id.* According to the PCA evaluation, the allotted time is to allow the PCA to assist with shaving and nail care due to poor vision and blindness in his right eye. The Fallon representatives noted that the time previously approved for grooming was excessive, and it was adjusted to accurately reflect the average times reflected in the time-for-task guidelines, a copy of which had been submitted into the record. *Id.* at 69-88.

4. Eating

Next, Fallon dropped the time authorized for assistance with eating from 105 minutes per-week to 45 minutes per-week, amounting to 15 minutes 3 times per-week. According to the Fallon representatives, Appellant was deemed capable of feeding himself independently and required only occasional cueing assistance. Fallon explained that "cueing" is not a covered PCA service. Rather than denying the request in full, Fallon authorized some time, as a curtesy, for the PCA to "provide cueing as needed due to [Appellant's] cognition." *Id.* at 35.

5. Bowel care

Next, Fallon reduced the authorized time for bowel care assistance from 35 minutes per-week (5 minutes daily) to 5 minutes total per-week. The Fallon representatives explained that there was no evidence in the clinical documentation to show that Appellant was incontinent of bowel. It was noted that Fallon approved 105 minutes per-week of bladder care assistance due to documented urinary incontinence. However, given the absence of documented bowel care needs, the time previously authorized was not justified, and it was reduced to allow for as-needed assistance only. *Id.* at 36.

6. Medical Appointment Transport

Finally, Fallon dropped the time for assistance with transporting Appellant to medical appointments from 45 minutes per-week to 30 minutes per-week. This determination was based on a review of the frequency of Appellant's medical appointments over the past year, which showed Appellant had attended 9 medical appointments in the past 12-month period. *Id. at 35; 68.* There was nothing to indicate that Appellant would attend more than 9 medical appointments in the current PA period. Additionally, the time authorized, when broken down, allows for more than 9 appointments per year so that if there is any change, it will be accommodated by the current approved hours.

Fallon representatives explained that because the PCA program is a task-based program, the additional hours could not be authorized because there was no evidence that such assistance was being provided or was required. Fallon cited MassHealth medical necessity regulations at 130 CMR 450.204; PCA regulations at 130 CMR 422.00 *et seq*. and the time for task service protocol, copies of which were submitted into evidence. *Id.* at 69-88.

Fallon testified that in addition to the modified areas of care, it approved the requested time for assistance, as it had in the last PA period with respect to the following ADLs and IADLs: showering (217 minutes per-week), dressing and undressing (84 minutes per-week), bladder care, laundry (90 minutes per-week), shopping (90 minutes per-week), housekeeping (90 minutes per-week) and PCA paperwork. *Id.* at 13. Fallon testified that although Appellant lives with his spouse, it did not reduce time with respect to his IADLs, despite this being a limitation on IADL coverage under MassHealth program regulations.

Appellant's daughter appeared at hearing by telephone and testified that the 7/3/24 nursing evaluation was performed poorly and did not accurately assess Appellant's functional status. On the scheduled evaluation date, the NCM arrived late. She then sat Appellant down in the living room and asked her (Appellant's daughter) a few questions about his medications and care needs before leaving. Appellant's daughter testified that the nurse never had Appellant perform any movements, which would have shown his level of impairment. Appellant's daughter testified that her father's condition has deteriorated over the past year, not gotten better. He spends most of the time in his bed. The daughter questioned how the nurse could conclude that Appellant's functional status had improved when his health has progressively worsened.

Appellant's daughter stated that the re-evaluation documentation is false and inaccurately reflects Appellant's current needs. She testified that Appellant is nearly blind and cannot ambulate independently; he requires assistance with all transfers and is on a medication that can make him dizzy. Appellant did not dispute that Appellant's medication dosing went from 3x per-day to 2x-per day; nor did she dispute the number of medical appointments he attended over the past 12-month period. She testified that Appellant is incontinent of both bladder and bowel and requires more toileting assistance. She also noted that the PCM wrote that Appellant lives in his apartment with his wife and "others," which is inaccurate. He and his wife live in an apartment complex with other elderly residents, but only the two live together. Appellant's daughter also noted that her mom (Appellant's wife) has health issues of her own and cannot contribute to Appellant's care. She testified that despite living together, Appellant and his wife do everything separately.

Appellant's daughter testified that in August of 2024, shortly after the reduction in PCA hours went into effect, Appellant sustained a fall at his home while alone and sustained an abrasion on his back. When his PCA came the next day, she saw the bruise and learned of the fall. Appellant's daughter felt that the fall would not have occurred if his PCA hours remained the same.

Appellant submitted into evidence, an 8/9/24 encounter note from Appellant's PCP documenting the incident and records from the hospitalization that followed. *See* Exh. 8-9. According to the 8/9/24 encounter, Appellant presented to his PCP after he fell at home due to "transient bilateral weakness" and later found by his visiting nurse "appearing confused." *See* Exh. 9. The doctor noted that Appellant had now "returned to his mental status baseline." *Id*. At the visit, Appellant reported that he "was ambulatory at home after the fall" and "no longer felt weak," however, Appellant did report increasing dysuria and discomfort on the right side of his back over the past several days. *Id.* Upon further testing, Appellant was found to have a urinary tract infection and was hospitalized for severe sepsis. *Id*. The records from the hospital indicated that after receiving antibiotic treatment during his hospitalization, Appellant's infection was resolved, and he was discharged home. *See* Exh. 8.

Appellant's representative testified that after the fall, she requested Fallon reassess Appellant's need for increased PCA services due to the decline in health. An initial appointment had to be rescheduled because Appellant was sick with the Covid-19 virus. On the date that Fallon rescheduled, Appellant was still ill and sick in bed, so the Fallon nurses[3] did not assess him. Rather than rescheduling another visit, Fallon reaffirmed its PCA determination. She felt that Fallon should not uphold the PA determination without a thorough and proper assessment, which as of the hearing date, had not occurred.

In response, Fallon representatives testified that they did make several attempts to redetermine Appellant's current PCA hours through a functional assessment without success. Encounter notes detailing the rescheduled visit indicate that, on arrival, Appellant was in bed sleeping. *See* Exh. 11 at 19-20. At several points during the visit, they requested Appellant wake up to participate in the assessment, but Appellant remained in bed and did not interact with the Fallon nurse assessors. *Id.* At hearing, Fallon also testified that the medical records submitted by Appellant indicated that the fall and related weakness that Appellant had been experiencing was primarily attributed to the infection (which subsequently resolved with treatment). Without additional information and an ability to reassess Appellant, Fallon testified that it was unable change its current determination.

Findings of Fact

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

1. Appellant is over the age of 65 and is a MassHealth beneficiary enrolled in Fallon's SCO program, referred to as "NaviCare."

2. Until 7/9/24, Appellant had been authorized for 37.75 hours per-week of PCA services.

[3] Pursuant to Appellant's request, a different case manager was assigned for the follow-up assessment than had been present for the 7/3/24 re-evaluation.

3. Appellant has diagnoses of hyperlipidemia, epilepsy, seizure disorder, glaucoma, localized scleroderma, calcification, tachycardia, bladder obstruction, compressed thoracic vertebrae, among other diagnoses.

4. Appellant lives on the first floor of an apartment with his wife.

5. On 7/3/24, a nurse case manager for Fallon conducted an in-person re-evaluation of Appellant to determine the level of assistance needed for the upcoming PCA PA period.

6. At the time of the evaluation, Appellant was oriented to person, place, time, and situation; he and his daughter (who was present) reported that Appellant did not have any recent falls or hospitalizations; his cardiac and respiratory status had been stable since the last review; he had occasional back pain that is managed with Tylenol; he has had no changes in vision or hearing, through his vision remained poor with blindness in his right eye; he has had no recent seizure activity since taking Keppra; he reported occasional urine incontinence; no GI issues; his mood was stable; and denied any ongoing skin issues.

7. Through a notice dated 7/17/24, Fallon informed Appellant that it partially approved his request for PCA services, authorizing 32 hours of assistance per-week effective 7/21/24, which effectively denied the request for an additional 5.75 hours per-week.

8. The portion of the request that was denied, was based on Fallon's reduction in the time allotted for PCA assistance with transfers, feeding, grooming, bowel care, medication administration, and medical appointment transportation.

9. On 8/9/24, after a level 1 appeal was filed by Appellant's daughter, Fallon upheld its initial determination.

10. In the new PA period, Fallon reduced assistance for mobility/transfers from 84 minutes to 70 minutes per-week (broken down as 5 minutes, 2 times per-day, every day).

11. Appellant was observed to ambulate and transfer independently without the use of an assistive device in his apartment, though he does require assistance with transfers in and out of bed.

12. Fallon reduced Appellant's authorized time for medication assistance from 105 minutes per-week to 70 minutes per-week based on information indicating that Appellant's medication dosage changed from three times per-day to two times per-day.

13. Fallon reduced the time authorized for grooming assistance from 175 minutes per-week to 105 minutes per-week, amounting to 15 minutes daily to allow for PCA assistance with shaving and nail care due to poor vision and blindness in his right eye.

14. Fallon reduced the time authorized for assistance with eating from 105 minutes per-week to 45 minutes per-week, amounting to 15 minutes 3 times per-week.

15. Appellant requires occasional cueing assistance when eating meals but is capable of feeding himself (bringing food to mouth) independently.

16. Fallon reduced the authorized time for bowel care assistance from 35 minutes per-week (5 minutes daily) to 5 minutes per-week based on inadequate information to show that Appellant was incontinent of bowel.

17. Fallon reduced the time for PCA assistance with transporting Appellant to medical appointments from 45 minutes per-week to 30 minutes per-week.

18. Appellant attended 9 medical appointments in the past 12-month period.

19. Fallon approved the requested time for assistance as it had in the last PA period with respect to the following ADLs and IADLs: showering (217 minutes per-week), dressing and undressing (84 minutes per-week), bladder care, laundry (90 minutes per-week), shopping (90 minutes per-week), housekeeping (90 minutes per-week) and PCA paperwork.

Analysis and Conclusions of Law

Appellant is a MassHealth member enrolled in Fallon Health's Senior Care Options program "NaviCare." Through its contract with the Executive Office of Health and Human Services (EOHHS), Fallon, in operating its SCO program, is responsible for providing enrolled dual eligible members, such as Appellant, with the full continuum of Medicare and MassHealth services covered under such programs. *See* M.G.L. c. 118E, § 9D(a); *see also* 130 CMR 610.004; 130 CMR 450.105. The SCO must ensure that the "duration and scope of Medicaid-covered services [available to its enrollees] shall be *at a minimum no more restrictive than the scope of services provided under MassHealth standard coverage*…" *See* M.G.L. c. 118E, § 9D(d).

As a MassHealth beneficiary, Appellant is eligible for services under its personal care attendant (PCA) program. PCA services are offered to member's who can appropriately be cared for in the home, so long as the following conditions are met:[4] First, the services must be "prescribed by a

[4] 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."

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).

Medically necessary services must be substantiated by records including evidence of such medical necessity and quality. *See* 130 CMR 450.204(B).

Here, there is no dispute Appellant meets all prerequisites to qualify for PCA services. At issue is whether Fallon, pursuant to its 7/17/24 coverage determination, as upheld in its 8/9/24 internal level 1 appeal, allotted sufficient time, in accordance with program regulations, for Appellant to receive PCA assistance to meet his care needs.

Once a member meets all conditions to qualify for PCA services, MassHealth determines, through the prior authorization process, whether the amount of PCA services being sought, are medically necessary to assist the member in performing activities of daily living (ADLs) and instrumental activities of daily living (IADLs). MassHealth covers PCA assistance for the following ADLs:

> (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

---

See 130 CMR 422.002.

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(A) (emphasis added).

In addition, MassHealth will reimburse for medically necessary IADL assistance. IADLs are tasks that are "instrumental to the care of the member's health and are performed by a PCA, such as meal preparation and clean-up, housekeeping, laundry, shopping, maintenance of medical equipment, transportation to medical providers, and completion of paperwork required for the member to receive PCA services." 130 CMR 422.402. In evaluating how much PCA assistance is required to perform an IADL, MassHealth requires certain factors be considered, including, the availability of live-in family members, the presence of other household members also receiving PCA services under the program, as well as the member's individual circumstances. *See* 130 CMR 422.410(C).

With respect to both ADLs and IADLs, 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 pay for "assistance provided in the form of cueing, prompting, supervision, guiding, or coaching." 130 CMR 422.412(C). To ensure that coverage determinations for PCA services are made in a consistent manner, MassHealth utilizes a time-for-task guideline, which provides average estimates for the amount of assistance time required for each ADL/IADL in relation to the level of assistance required by the member. *See* Exh. 5, p. 72. Likewise, NaviCare uses the time-for-task guideline as well as the NaviCare's program's *Guidelines for Determining PCA Time*. *Id.* at 69-71.

By appealing Fallon's 8/9/24 level 1 appeal determination, Appellant has the burden "to demonstrate the invalidity of the administrative determination." *Andrews* v. *Division of Medical Assistance*, 68 Mass. App. Ct. 228. *See also Fisch* v. *Board of Registration in Med.*, 437 Mass. 128, 131 (2002); *Faith Assembly of God of S. Dennis & Hyannis,* Inc. v. *State Bldg. Code Commn*., 11 Mass. App. Ct. 333, 334 (1981); *Haverhill Mun. Hosp*. v. *Commissioner of the Div. of Med. Assistance*, 45 Mass. App. Ct. 386, 390 (1998).

In consideration of the evidence at hearing and the regulatory authority discussed above, Appellant did not sufficiently demonstrate that Fallon erred in denying his request for an additional 5.75 hours of PCA services per-week. This reduction in services (37.75 hours per-week previously to 32 hours per-week) was based on Fallon's determination that Appellant did not need the level of assistance that had been previously approved for transfers, eating, grooming, bowel care, medication administration, and medical transportation assistance. In its 7/17/24 letter, Fallon informed Appellant that it denied 5.75 hours to account for PCA tasks that were no longer necessary "due to your functional improvement." *See* Exh. 11, p. 6. Opposing the decision, Appellant's representative argued that Appellant's functional abilities had not improved since the last review, but rather, had progressively worsened. Indeed, there is nothing in the reevaluation notes or clinical documented submitted that would indicate Appellant's functional status had "improved" since the last PA period.[5] However, Appellant did not articulate with sufficient detail how the PCA would utilize the additional 5.75 hours to physically assist Appellant in each impacted area of care. At hearing, Appellant did not dispute that his prescribed medication regimen switched from 3x per-day to 2x-per day, nor was there any dispute as to the number of medical appointments attended in the last 12 months, and/or that Appellant was expected to exceed this amount in the upcoming PA period. Appellant did not present sufficient evidence to rebut Fallon's determination that he was independent with feeding, i.e., capable of bringing food to his mouth. As noted by Fallon, the need to verbally cue Appellant to eat is not covered under the PCA program. *See* 130 CMR 422.412(C). While Appellant did assert the need for bowel care and transfer assistance due to his poor vision and stability, there was inadequate description regarding the specific physical acts provided by the PCA in rendering such services. Even if this level of detail had been presented at hearing, MassHealth requires that medically necessary services be substantiated by records including evidence of such medical necessity and quality. *See* 130 CMR 450.204(B). As the moving party, it is Appellant's burden to demonstrate, by a preponderance of the evidence, the invalidity of the agency action. *Andrews* v. *Division of Medical Assistance*, 68 Mass. App. Ct. 228.[6] Though Appellant raised understandable concerns regarding the thoroughness of the nursing reevaluation, none of the testimony or medical records presented at hearing sufficiently demonstrated that the time approved for assistance with transfers, grooming, eating, bowel care, medication administration and medical transportation, were inadequate to meet Appellant's needs.

For these reasons, this appeal is DENIED.

---

[5] Despite the language in the notice, Fallon's testimony at hearing suggested that the reduction in services was more likely a result its stronger adherence to MassHealth PCA guidelines, such as the time-for-task tool, which provides a standardized protocol for measuring the average amount of physical assistance that the PCA is expected to provide to assist an individual in relation to his/her level of functioning.

[6] *See also Fisch* v. *Board of Registration in Med.*, 437 Mass. 128, 131 (2002); *Faith Assembly of God of S. Dennis & Hyannis,* Inc. v. *State Bldg. Code Commn*., 11 Mass. App. Ct. 333, 334 (1981); *Haverhill Mun. Hosp*. v. *Commissioner of the Div. of Med. Assistance*, 45 Mass. App. Ct. 386, 390 (1998).

Order for SCO

None.

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.

Casey Groff
Hearing Officer
Board of Hearings

cc: [redacted]

MassHealth Representative: Fallon Health, Member Appeals and Grievances, 10 Chestnut Street, Worcester, MA 01608