

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2416129
Decision Date:	1/13/2025	Hearing Date:	11/20/2024
Hearing Officer:	Marc Tonaszuck		

Appearance for Appellant:



Appearance for MassHealth:

Robin Brown, OTR/L, Optum



*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 – Personal Care Attendant (PCA) Services
Decision Date:	1/13/2025	Hearing Date:	11/20/2024
MassHealth's Rep.:	Robin Brown, OTR/L, Otpum	Appellant's Rep.:	Son
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 08/21/2024, MassHealth modified the appellant's prior authorization request for personal care attendant (PCA) services from a requested 25 hours and 15 minutes (25:15) of hours per week to 24:00 hours per week for the dates of service from 09/06/2024 to 09/05/2025 (130 CMR 422.410; Exhibit 1). On 10/21/2024 a timely appeal was filed by the appellant (130 CMR 610.015(B); Exhibit 2). Modifications of a request for assistance are valid grounds for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth modified the appellant's prior authorization request for personal care attendant services.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 422.410 and 450.204, in

modifying appellant's prior authorization request for personal care attendant services.

Summary of Evidence

The appellant, her representative/son, and the MassHealth/Optum representative appeared telephonically. Exhibits were admitted into evidence (1-4).

The MassHealth representative testified that she is licensed occupational therapist who works for Optum, the MassHealth contractor that makes the personal care attendant (PCA) decisions. She testified that on 08/20/2024 a prior authorization request (PA) for PCA services was received on appellant's behalf from her PCA Agency (PCM), [REDACTED] ("provider"), for the dates of service of 09/06/2024 to 09/05/2025. It is a re-evaluation. In the PA request for PCA services (Exhibit 4), the provider requested 25:15 hours per week for PCA assistance. The appellant is in her [REDACTED] with diagnoses that include heart disease, osteoarthritis, and memory impairment. She lives independently in the community.

On 08/21/2024, MassHealth modified the request for PCA assistance to 24:00 hours per week. MassHealth modified the time requested in the activities of daily living (ADL) areas of dressing and undressing.

The appellant's PCA provider requested on her behalf 20 minutes per day for assistance with dressing and 15 minutes per day for assistance undressing. The provider noted that the appellant needs moderate physical assistance with upper extremity and lower extremity dressing and undressing and she needs physical assistance with donning and doffing footwear. The appellant "dresses sitting on side of bed, PCA to gather weather appropriate clothing initiate overhead and over feet, able to thread limbs, [the appellant] is unable to bed reach or twist impaired mobility from osteoarthritis pain, decreased range of motion and decreased fine motor control; she is unable to manipulate buttons fasteners and laces."

MassHealth modified the time requested to 15 minutes per day for assistance with dressing and 10 minutes per day for assistance with undressing. The MassHealth representative testified that the provider noted that the appellant needs "moderate assistance" with this task, which means she can assist at least 50%. The time requested is more than ordinarily necessary for someone with the appellant's abilities.

The appellant's son testified that the appellant cannot dress herself. She wears a diaper. The PCA assists her with dressing and undressing. He did not know how much time the PCA needs to perform this task.

Findings of Fact

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

1. On 08/20/2024, MassHealth received a prior authorization (PA) request for PCA services on appellant's behalf from the PCA provider, [REDACTED] ("provider"), for the dates of service of 09/06/2024 to 09/05/2025 (Testimony; Exhibit 4).
2. In the PA request for PCA services, the provider requested 25:15 day/evening hours per week of PCA assistance (Testimony; Exhibit 4).
3. The appellant is in her [REDACTED] with diagnoses that include heart disease, osteoarthritis, and memory impairment. She lives independently in the community (Testimony; Exhibit 4).
4. On 08/21/2024 MassHealth modified the PCA request to 24:00 day/evening hours per week. Modifications were made in the activities of daily living (ADL) tasks of dressing and undressing (Testimony; Exhibits 1 and 4).
5. The appellant filed her timely request for a fair hearing with the Board of Hearings on 10/21/2024. A fair hearing was held on 11/20/2024 (Exhibits 2 and 3).
6. The appellant's provider requested 20 minutes per day of assistance with dressing and 15 minutes per day for assistance with undressing. The provider noted that the appellant requires:

needs physical assistance with upper extremity and lower extremity dressing and undressing and she needs physical assistance with donning and doffing footwear. The appellant "dresses sitting on side of bed, PCA to gather weather appropriate clothing initiate overhead and over feet, able to thread limbs, [the appellant] is unable to bed reach or twist impaired mobility from osteoarthritis pain, decreased range of motion and decreased fine motor control; she is unable to manipulate buttons fasteners and laces.

(Exhibit 4.)

7. The PCA provider indicated on the PA request that the appellant requires "moderate assistance" with dressing and undressing (Testimony; Exhibit 4).
8. Moderate assistance means that the appellant is able to assist at least 50% with the tasks (Testimony; Exhibit 4).
9. MassHealth modified the request to 15 minutes per day for assistance with dressing and 10 minutes per day for assistance with undressing (Testimony; Exhibit 4).

Analysis and Conclusions of Law

Regulations at 130 CMR 450.204 described medical necessity, as follows:

The MassHealth agency will not pay a provider for services that are not medically necessary and may impose sanctions on a provider for providing or prescribing a service or for admitting a member to an inpatient facility where such service or admission is not medically necessary.

(A) 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 (emphasis added).

Regulations at 130 CMR 422.412 describe non-covered PCA services:

MassHealth does not cover any of the following as part of the PCA program or the transitional living program:

(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.

To qualify for services under the PCA program, the member must meet the conditions defined at 130 CMR 422.403, below:

(C) MassHealth covers personal care services provided to eligible MassHealth members who can be appropriately cared for in the home when all of the following conditions are met:

- (1) The personal care services are prescribed by a physician or a nurse practitioner who is responsible for the oversight of the member's health care.
- (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 personal care agency, requires physical assistance with two or more of the following ADLs as defined in 130 CMR 422.410(A):
 - (a) mobility, including transfers;
 - (b) medications,
 - (c) bathing/grooming;
 - (d) dressing or undressing;
 - (e) range-of-motion exercises;
 - (f) eating; and
 - (g) toileting
- (4) The MassHealth agency has determined that the PCA services are medically necessary and has granted a prior authorization for PCA services.

The type of PCA services available are described in 130 CMR 422.410 below:

- (A) Activities of Daily Living (ADLs). Activities of daily living include the following:
- (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/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.

(B) Instrumental Activities of Daily Living (IADLs). Instrumental activities of daily living include the following:

- (1) household services: physically assisting with household management tasks that are incidental to the care of the member, including laundry, shopping, and housekeeping;
- (2) meal preparation and clean-up: physically assisting a member to prepare meals;
- (3) transportation: accompanying the member to medical providers; and
- (4) special needs: assisting the member with:
 - (a) the care and maintenance of wheelchairs and adaptive devices;
 - (b) completing the paperwork required for receiving personal care services; and
 - (c) other special needs approved by the MassHealth agency as being instrumental to the health care of the member.

(C) Determining the Number of Hours of Physical Assistance. In determining the number of hours of physical assistance that a member requires under 130 CMR 422.410(B) for IADLs, the personal care agency must assume the following.

- (1) When a member is living with family members, the family members will provide assistance with most IADLs. For example, routine laundry, housekeeping, shopping, and meal preparation and clean-up should include those needs of the member.
- (2) When a member is living with one or more other members who are authorized for MassHealth personal care services, PCA time for homemaking tasks (such as shopping, housekeeping, laundry, and meal preparation and clean-up) must be calculated on a shared basis.
- (3) The MassHealth agency will consider individual circumstances when determining the number of hours of physical assistance that a member requires for IADLs.

The appellant has the burden "to demonstrate the invalidity of the administrative determination." See [REDACTED]
Moreover, the burden is on the appealing party to demonstrate the invalidity of the administrative determination. See [REDACTED]
[REDACTED]

MassHealth modified the appellant's request for PCA time in two areas where the provider requested time for assistance: dressing and undressing. The provider requested 20 minutes per day for assistance with dressing and 15 minutes per day for assistance with undressing.

MassHealth modified the request for assistance with dressing and undressing to 15 minutes and 10 minutes per day, respectively. MassHealth based its decision on the provider's note that the appellant requires "moderate" assistance with these tasks, which means she is able to assist at least 50% with the tasks.

Appellant's son testified that the appellant cannot dress or undress herself; she receives assistance with both from her PCA. He could not testify to the amount of time the PCA needs to perform the tasks. Since the appellant is unable to show that MassHealth's decision is incorrect, he has been unable to meet his burden of proof. MassHealth's modifications are supported by the facts in the hearing record as well as the relevant regulations. This appeal is therefore denied.

Order for MassHealth

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.

Marc Tonaszuck
Hearing Officer
Board of Hearings

cc:

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