

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Approved in part; Denied in part	<b>Appeal Number:</b>	2416274
<b>Decision Date:</b>	3/7/2025	<b>Hearing Dates:</b>	11/26/2024 and 01/16/2025
<b>Hearing Officer:</b>	Kimberly Scanlon		

**Appearances for Appellant:**




**Appearances for MassHealth:**

Robin Brown, OTR/L  
Mary-Jo Elliott, RN  
Kelly Rayen, RN (01/16/2025 only)



*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

<b>Appeal Decision:</b>	Approved in part; Denied in part	<b>Issue:</b>	Prior Authorization – PCA Services
<b>Decision Date:</b>	3/7/2025	<b>Hearing Dates:</b>	11/26/2024 and 01/16/2025
<b>MassHealth's Reps.:</b>	Robin Brown, OTR/L Mary-Jo Elliott, RN Kelly Rayen, RN	<b>Appellant's Rep.:</b>	
<b>Hearing Location:</b>	Quincy Harbor South (Videoconference)	<b>Aid Pending:</b>	Yes

### 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 October 15, 2024, MassHealth modified the appellant's prior authorization (PA) request for personal care attendant (PCA) services from the requested 125 hours and 45 minutes of PCA assistance per week to 68 hours per week (Exhibit 1). The appellant filed this appeal in a timely manner on or about October 23, 2024 (130 CMR 610.015; Exhibit 2). Modification of a PA request is valid grounds for appeal (130 CMR 610.032). The hearing was held on November 26, 2024 and was reconvened on January 16, 2025.

### Action Taken by MassHealth

MassHealth modified the appellant's PA request for PCA services.

## Issue

The appeal issue is whether MassHealth is entitled to more PCA services than MassHealth has authorized.

## Summary of Evidence

The hearing was conducted *via* videoconference. At the hearing held on November 26, 2024, MassHealth was represented by a registered occupational therapist and a registered nurse. Both individuals are clinical appeals reviewers. Their testimony is summarized as follows: The appellant is a female in her early twenties who lives with her parents. She has the following diagnoses: DLGNT, which is a rare malignant cancer of the meninges (the lining of the spinal cord and brain), paraplegia, a ventral peritoneal shunt, seizures, migraines, multiple thoracic vertebral fractures, G-tube fed, a recent foot fracture, chronic pain, localized edema, neuromuscular dysfunction of the bladder, and tremors.<sup>1</sup> The appellant has been weaning off some of her medications. The appellant is non-ambulatory and uses a manual tilt-in-space wheelchair, a power wheelchair with power tilt and recline and power-elevated leg rests, a semi-electric hospital bed with a power pressure-reducing mattress. The appellant participates in MassHealth's Moving Forward Plan (MFP) Waiver program. As part of that program, the appellant is authorized to receive between 101 and 168 skilled nursing hours per week, and 78 home health aide hours per week (Exhibit 9, pp. 42, 74, 102). She is also authorized to receive 10 occupational therapy sessions per month, and 10 physical therapy sessions per month (Exhibit 9, pp. 42, 43).<sup>2</sup> At the January reconvened hearing, MassHealth noted that the appellant utilizes an average of 71.5 nursing hours per week (Exhibit 9, p. 109)

On September 20, 2024, the [REDACTED], the appellant's personal care management ("PCM") services agency, submitted a PA re-evaluation request to MassHealth on the appellant's behalf, seeking the following: 125 hours and 45 minutes of day/evening PCA assistance per week. MassHealth initially deferred the request because it did not include sufficient documentation to support the medical necessity for the increase in services. MassHealth requested a current schedule to show when the appellant was receiving nursing and home health aide services; this information was needed to prevent the authorization of duplicative and/or overlapping services. MassHealth also sought clarification, among other things, around which individuals assist the appellant with her activities of daily living. In response to the deferral, MassHealth received a copy of a calendar (Exhibit 9, p. 87). The agency noted that the appellant does not have a fixed schedule due to her nuanced and complex care needs, and indicated that her needs change hour by

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<sup>1</sup> The appellant's mother added that the appellant has had three recent hospital admissions, and as a result is at high risk of a brain bleed, has extensive spasms, has an increased femoral clot risk, and is at increased stroke risk due to the stroke she had during her second recent hospital admission.

<sup>2</sup> The appellant's mother clarified that the appellant receives occupational therapy once per week, and physical therapy, at most, three times per week.

hour, minute by minute. The calendar is based on an “ideal” day. The agency noted that there is no duplication of services between the PCA and the home health aide (HHA); the HHA is with the appellant overnight so her parents can sleep, and for a few hours during the day.

After multiple reviews by different consultants, MassHealth modified the appellant’s request, noting that the primary reason for the decision was that much of the request represented a duplication of services. By notice dated October 15, 2024, MassHealth modified the requested time to the following: 68 hours of day/evening PCA assistance per week (Exhibit 1). The time period for this PA request is October 16, 2024 through October 15, 2025. The appellant’s previously authorized 88 hours of day/evening PCA assistance per week was protected for the pendency of the appeal (Exhibit 4, p. 2). MassHealth made 19 modifications to the request.

The appellant’s attorney noted that the MFP Waiver team recently reviewed the appellant’s eligibility and changed her services. She no longer receives HHA services and instead receives companion and homemaker service hours. He argued that any argument regarding a duplication of services (PCA vs. HHA) is now moot. The appellant’s attorney also noted that due to the nursing shortage, the appellant can never fill all the authorized nursing hours – the average is six hours per day. He reviewed the hours utilized in the recent past and noted that they fluctuate between approximately 30 and 90 hours per week (Exhibit 9, p. 10).

### **Mobility**

At the November hearing, the parties addressed one modification, as follows: The appellant requested five minutes, six times per day, seven days per week (totaling 210 minutes) for PCA assistance with mobility (Exhibit 6, p. 12). MassHealth modified the request to three minutes, six times per day, seven days per week (totaling 126 minutes). MassHealth clarified that this task only involves helping the appellant move from one room to another – it does not involve assistance with transfers. MassHealth modified the request because the time requested is longer than is required for someone with the appellant’s physical needs (using a manual or power wheelchair). Further, MassHealth modified the request because the appellant has assistance available from another legal entity already obligated to provide these services (a nurse and an HHA).

The appellant responded and stated that last year, MassHealth and the appellant determined that having services provided by a nurse and a PCA is not duplicative. Further, he referenced the appellant’s mother’s affidavit and explained that it takes longer for the appellant to move from room to room. The appellant’s caregivers must be very careful when moving the appellant because of the blood clots up and down her legs and in her femoral artery, and because of her broken back (Exhibit 7B, p. 003). The attorney referenced a letter from the appellant’s neuro-oncological specialist; the specialist writes that the appellant is paralyzed from her thoracic tenth vertebrae to her entire legs, feet and toes. She has sustained several compression fractures in her spine due to poor bone health in her paralyzed status in the setting of massive spinal tumor burden, and how she is moved is important in maintaining the stability of those fractures. This is further complicated by a deep

veinous thrombosis in her femoral vein (Exhibit 7B, p. 012 and 013). The appellant's physical therapist notes that she has impaired upper extremity coordination, dependence for mobility, inability to sit unsupported, and pain building with upright sitting (Exhibit 7B, p. 016). The appellant's speech therapist notes that the appellant needs maximum assistance to leave the home and has reduced mobility (Exhibit 7B, p. 027). The appellant's mother confirmed that the appellant cannot be moved in three minutes. Each 10 degree move requires a pause to make sure that she is not dizzy or nauseous. The appellant's surrogate added that the appellant takes 32 medications, with most having nausea as a side effect. She also has headaches every day and often vomits with movement. Thus, wheelchair movement must be slower than normal. The appellant's residence is not large.

The hearing adjourned at this point to allow the MassHealth representatives an opportunity to review additional documentation submitted by the appellant, including the recent evaluation related to the appellant's MFP Waiver participation. The hearing was reconvened on January 16, 2025, at which time the documentation confirms that the appellant does in fact receive 78 hours per week of HHA services. MassHealth revised its initial determination and stated that instead of 19 modifications, MassHealth has now made 18 modifications to the appellant's request.

At the January reconvened hearing, the parties revisited the appellant's request for PCA assistance with mobility. A MassHealth nurse consultant repeated the points set forth above, citing 130 CMR 450.204(A)(2), 517.008(B)(2), and 503.007(B). The appellant's attorney argued that the appellant's PCA and HHA services do not overlap, as the HHA services are only utilized at night while the appellant's parents are sleeping. Because the HHA services are provided through a waiver program, the services can include assistance with ADLs, as well as cueing, prompting, and supervision. The PCA services are utilized only during the day. The appellant's attorney also argued that the mobility task takes more than three minutes per episode, as described above, and noted that over the past several months, the appellant has developed blood clots in her lower extremities and a cerebral bleed in her brain. He argued that the appellant needs extra care because of back fractures and blood clots in her legs, and mobility simply takes more time.

The appellant's mother stated that when the appellant is in her power wheelchair, the caregiver provides hand over hand assistance on the joystick when the appellant moves from room to room. This event takes between five and 10 minutes and takes longer if the appellant vomits. She stated that the task involves stops and starts. The MassHealth occupational therapist responded, noting that with her 40 years of experience, she has worked with many neurologically compromised individuals, and in her opinion, three minutes is more than sufficient to help with this task (either by pushing a manual wheelchair or providing hand over hand assistance with a power chair, which she does not recommend). She noted that a power chair can travel up to 6.5 miles per hour. She also noted that waiting time is not a covered service, and that emesis clean-up and assessment are not part of the task of mobility. The appellant's attorney added that moving slow is crucial – moving too fast could cause a low- or high-pressure event, and the appellant could die.

## **Transfers**

The appellant requested 25 minutes, six times per day, seven days per week (totaling 1,050 minutes) for PCA assistance with transfers (Exhibit 9, p. 12). MassHealth modified the request to 15 minutes, six times per day, seven days per week (totaling 630 minutes). MassHealth modified the request because the time requested is longer than is required for someone with the appellant's physical needs. Further, MassHealth modified the request because the appellant has assistance available from another legal entity already obligated to provide these services (a nurse). On the Form CMS-485 (a form used by home health care agencies to certify and plan care for patients), there is a statement that the nurse is to perform Hoyer lift transfers (Exhibit 9, p. 77). The appellant has a hydraulic lift, a ceiling mounted lift, and a video monitor. The HHA could also help with this task. MassHealth also noted the appellant's multiple compression fractures and back brace (Exhibit 9, p. 112) and questioned why she is transferred so frequently given her frailty.

The appellant's attorney responded and stated that appellant requires more than 25 minutes per episode for assistance with transfers. He referred to the physical therapy note, (Exhibit 7B, p. 018), noting that the physical therapy specialist references the appellant's neurological weakness and paralysis of bilateral lower extremities, as well as the impaired coordination and fine motor control of her bilateral upper extremities. The physical therapist states that the appellant requires maximum assistance with two people with the Hoyer lift to ensure safety with transfers. The attorney clarified that a nurse and PCA perform all transfers; the HHA assists only at night. The appellant's mother described the transfer process as a painstaking process where the appellant is moved in 10-degree increments; she described a recent transfer at the hospital that took approximately 40 minutes. She also clarified that the appellant needs to transfer frequently because pressure events are brought on by lack of movement.

The MassHealth occupational therapist described a typical Hoyer lift and noted that for individuals with spasms and/or pain, two people can be needed for some parts of the process. Certain steps of the process must occur, including applying the sling, raising the person, pushing a button to raise the bed, pushing a button to raise the lift, turning the person, and pushing a button to lower the person. There are parts of the process that require only one person. The appellant disagreed and stated that two people are required for the entire transfer process. The appellant also noted that process involves some waiting, but transfers would not happen without waiting time included.

## **Repositioning**

The appellant requested seven minutes, four times per day, seven days per week (totaling 196 minutes), and five minutes, 10 times per day, seven days per week (totaling 350 minutes) for PCA assistance with repositioning (Exhibit 9, p. 13). MassHealth modified the request to five minutes, 10 times per day, seven days per week (totaling 350 minutes). MassHealth modified the request because the time requested is longer than is required for someone with the appellant's physical needs. Further, MassHealth modified the request because the appellant has assistance available at

no cost to her from another legal entity already obligated to provide these services. The documentation states that the appellant is totally dependent for repositioning every two hours for skin integrity, offloading pressure points to prevent breakdown. The documentation also states that the appellant needs additional repositioning two times per hour of upper torso angle in all directions due to need for VP shunt drainage. The documentation indicates that a change of position is needed to allow cerebral spinal fluid to shift and prevent clogging. The MassHealth consultant explained that the appellant is repositioned during activities during the day, including with toileting, bathing, occupational therapy, physical therapy, appointment, dressing, and nursing care. She also has two wheelchairs which have tilt options. A PCA can also put a pillow under her to slightly change her position at any time. With all these repositioning opportunities, five minutes, 10 times per day should be sufficient to meet the appellant repositioning needs. Further, the Form CMS-485 provides that the nurse is authorized to assist with repositioning every two hours using a pressure relief device pillow (Exhibit 9, p. 78).

The appellant's attorney responded and stated that it takes two people to reposition the appellant (the nurse and a PCA). This task takes more time than is typical. The appellant's mother's affidavit specifies that the appellant needs to be repositioned frequently, sometimes two or three times per hour (Exhibit 7B, pp. 003-004). The occupational therapy letter states that the appellant requires moderate to maximum assistance of two caregivers to roll the appellant from side to side to help control lower extremities due to impaired motor control and sensation; she can assist with upper extremities when not fatigued. The appellant's mother testified that the appellant has spasms, contractures, and pain from her tumor burden, all of which make repositioning difficult. The appellant's knees are folded before repositioning. She has three bracing pillows behind her back and four at her feet.

The MassHealth consultant noted that the appellant has an HHA to assist at night (12 am – 6 am). The night hours total 42 hours per week. Because the appellant has been authorized to receive 78 hours per week for HHA services, there are 36 day/evening hours per week during which the HHA can provide assistance. Also, the appellant has an average of two medical appointments per week and is therefore out of the house these days, reducing her need for repositioning in the home.

### **Passive Range of Motion**

The appellant requested 10 minutes, two times per day, seven days per week to each extremity (totaling 560 minutes) for PCA assistance with passive range of motion exercises (Exhibit 9, p. 14). MassHealth denied the request because the documentation submitted indicates that the requested services do not meet the professionally recognized standards of healthcare. Further, MassHealth modified the request because the requested services are available at no cost to her from another legal entity already obligated to provide these services. Per the Form CMS-485, the nurse is to perform passive and active range of motion exercise to the appellant's upper and lower extremities every shift, only to resistance, as tolerated (Exhibit 9, p. 77). There is a note that the nurse is to be gentle, with precautions, due to the appellant's history of multiple vertebral fractures. The

MassHealth nurse consultant stated that because of the appellant's fragility, this is a skilled task that should not be performed by an unskilled PCA.

The appellant's attorney responded and stated that the appellant's PCA is her mother; her mother has been trained and can and does perform this task. He noted that the appellant has some mobility in her upper extremities and that assistance with these limbs would be considered active range of motion. For the lower extremities, however, it is passive range of motion. The nurses and the PCA both perform this task. Since the appellant's recent hospitalizations and the discovery of her femoral clots, performance of this task has become even more important. The attorney referred to the physical therapy note, which provides that the appellant has swelling and decreased range of motion in her bilateral lower extremities but remains stable with continued massage and passive range of motion throughout the day. The nurse is to perform passive range of motion to the appellant's ankles, knees, and hips every other hour for 20 to 30 minutes for each leg. (Exhibit 9, p. 20). The appellant's mother stated that she performs this task at least every other hour, for 20 to 30 minutes.

The MassHealth nurse consultant stated that because the appellant has osteoporosis, fractures, and tumors, she needs skilled evaluation and assessment during this task, which a PCA is not equipped to do. Further, the appellant receives other skilled services (physical therapy and occupational therapy) with licensed skilled providers who can safely perform this task.

### **Bathing**

The appellant requested 75 minutes per day, seven days per week (totaling 525 minutes), and 15 minutes per day, seven days per week (totaling 105 minutes), for PCA assistance with bathing (Exhibit 9, p. 16). MassHealth modified the request to 45 minutes per day, seven days per week (totaling 315 minutes). MassHealth modified the request because the time requested is longer than is required for someone with the appellant's physical needs. Further, MassHealth modified the request because the appellant has assistance available from another legal entity already obligated to provide these services (a nurse). Per the Form CMS-485, the nurse is to perform the task of bathing (Exhibit 9, p. 47). Further, the HHA can also assist with this task.

The appellant's attorney stated that the appellant needs more time for this task for the same reasons as outlined above. The task takes 75 minutes for the shower, and 15 minutes for the bed bath, and requires two people. The appellant has spasticity, contractures, pain, vertigo, tumors, and femoral artery clots. The HHA is not involved because the HHA typically works from 11 pm to 7 am, which is not the time frame within which the appellant takes a shower or has a bed bath.

### **Bathing Transfers**

The appellant requested 25 minutes per day, seven days per week (totaling 175 minutes) for PCA assistance with bathing transfers (Exhibit 9, p. 16). MassHealth modified the request to 15 minutes



per day, seven days per week (totaling 105 minutes). The appellant's attorney stated that this takes longer than 15 minutes for the reasons described above and requires two people. MassHealth asked why the appellant isn't transferred directly from bed to the shower chair, and the appellant's mother responded that the shower chair does not fit in the appellant's bedroom.

### **Grooming/Oral Care**

The appellant requested five minutes, two times per day, seven days per week (totaling 70 minutes) for PCA assistance with grooming/oral care (Exhibit 9, p. 18). MassHealth modified the request to five minutes, once per day, seven days per week (totaling 35 minutes). MassHealth modified the request because the time requested is longer than is required for someone with the appellant's physical needs. Further, MassHealth modified the request because some of these services are available to the appellant at no cost to her from another legal entity already obligated to provide these services (a nurse). The Form CMS-485 states that the nurse is to perform personal care, including oral care twice per day (tooth brushing and tongue scraping to prevent thrush) (Exhibit 9, p. 74). Thus, MassHealth modified the request to allow the PCA time to assist once per day to assist with this task, and the nurse to assist with the second daily oral care event.

The appellant's mother stated that the appellant's dentist has requested that oral care be performed five times per day. She stated that oral care is typically performed three times per day, and the nurse does not always participate because the appellant refuses. The MassHealth nurse consultant suggested that the appellant ask that her PCM agency request an adjustment to reflect this change.

### **Grooming/Lotion**

The appellant requested 10 minutes per day, seven days per week (totaling 70 minutes) for PCA assistance with grooming/other (lotion) (Exhibit 9, p. 18). MassHealth modified the request to five minutes per day, seven days per week (totaling 35 minutes). MassHealth modified the request because the time requested is longer than is required for someone with the appellant's physical needs. Further, MassHealth modified the request because some of these services are available to the appellant at no cost from another legal entity already obligated to provide these services (a nurse). The Form CMS-485 states that the nurse is to perform personal care, including skin care as needed (Exhibit 9, p. 74). There is also a letter from Dana Farber, (Exhibit 9, p. 112-113) that states that the appellant needs daily skin checks to monitor for ongoing pressure sores. MassHealth stated that this task requires an assessment appropriate for a nurse.

The appellant argued that this task takes longer, and that both the nurse and the PCA share this task. The appellant's mother stated that radiation has created very thin skin, and thus lotion must be applied multiple times per day.

## **Dressing/Undressing**

The appellant requested 25 minutes per day, seven days per week (totaling 175 minutes) for PCA assistance with dressing, and 20 minutes per day, seven days per week (totaling 140 minutes) for PCA assistance with undressing (Exhibit 9, p. 20). MassHealth modified the request to 20 minutes per day, seven days per week (totaling 140 minutes) for dressing, and 15 minutes per day, seven days per week (totaling 105 minutes) for undressing. MassHealth modified these requests because the time requested is longer than is required for someone with the appellant's physical needs. Further, MassHealth modified the request because some of these services are available to the appellant at no cost to her from another legal entity already obligated to provide these services (a nurse). The Form CMS-485 states that the nurse is to perform personal care, including dressing (Exhibit 9, p. 74). The appellant is totally dependent for this task, and MassHealth takes the position that 20/15 minutes of PCA assistance should be sufficient. The MassHealth nurse noted that the appellant's deferral response mentions "pauses for spasticity." She responded by repeating that "wait time" is not covered through MassHealth's PCA program.

The appellant's attorney stated that the authorized minutes is not sufficient time to provide assistance with these tasks. The appellant all the issues previously discussed, which makes dressing take longer and a two-person task. The task involves positioning and moving her body. The appellant's mother noted that the nurse doesn't always have time to perform this task. The appellant's mother also noted that while the appellant pauses, the caregivers are actively holding her.

## **Eating**

The appellant requested 20 minutes, three times per day, seven days per week (totaling 420 minutes) for PCA assistance with eating (Exhibit 9, p. 21). MassHealth modified the request to 10 minutes, three times per day, seven days per week (totaling 210 minutes). MassHealth modified this request because the time requested is longer than is required for someone with the appellant's physical needs. Further, MassHealth modified the request because some of these services are available to the appellant at no cost to her from another legal entity already obligated to provide these services (a nurse). The Form CMS-485 states that the nurse is to perform G-tube feeds, continuous (Exhibit 9, p. 77). This request was initially deferred for clarification as to whether the appellant was taking solids by mouth. The response stated that the appellant does not take solids by mouth but is constantly sipping liquids due to severe dry mouth related to medications.

The documentation provides that the appellant requires moderate assistance with eating and drinking preferred foods due to severe nausea and emesis related to chemotherapy. She is G-tube fed, administered continuously, other than when she receives her chemotherapy medication twice daily. There is also a letter from Dana Farber that states that the appellant has difficulty swallowing, eating food by mouth, and drinking, and that she is at high risk for aspiration and choking (Exhibit 9,

p. 111). MassHealth argued that assistance with eating is therefore outside the PCA's scope. She is also G-tube fed, so the time granted is just for fluid assistance.

The appellant's attorney referred to the speech therapist's report, which states that the appellant needs to have at least 75 swallows per day even if small (Exhibit 7B, p. 029). The PCA helps with this by putting the food on the spoon and putting it to her lips; the nurse monitors this task.

The appellant's mother stated that the appellant wants to eat food and eats small amounts of food. There is a stated goal that the appellant be able to eat by mouth again. She needs to be able to swallow to be able take her chemotherapy drugs (four pills).

### **Toileting/Bladder Care**

The appellant requested 25 minutes, four times per day, seven days per week (totaling 700 minutes), and 12 minutes, two times per day, seven days per week (totaling 168 minutes), for PCA assistance with bladder care (Exhibit 9, p. 22). MassHealth modified the request to 10 minutes, six times per day, seven days per week (totaling 420 minutes). MassHealth modified these requests because the time requested is longer than is required for someone with the appellant's physical needs. Further, MassHealth modified the request because some of these services are available to the appellant at no cost to her from another legal entity already obligated to provide these services (a nurse).

The MassHealth nurse consultant stated that the appellant requires straight catheterization four times per day due to a neurogenic bladder. The PCA is to position and pull her legs apart; this has been requiring two people due to contractures and spasms. The nurse performs the straight catheterization; this can require several attempts. The appellant's mother performs the straight catheterization when no nurse is present. The appellant has a Foley catheter placed at 5 pm and removed at 7:30 am; PCA assists with positioning and pulling legs apart. The PCA empties the Foley bag two times overnight and ensures proper flow to prevent back up. The PCA performs hygiene, clothing adjustment, and changes absorbent products as needed for skin integrity. The Form CMS-485 states that the nurse is to perform personal care, including diapering (Exhibit 9, p. 74). Skilled nursing is to straight catheterize at 10 am, 12:30 pm, and 3 pm, and to place and remove the indwelling Foley catheter (Exhibit 9, p. 77). In its deferral response, the PCM agency noted that during the day, the appellant is straight catheterized every two hours; this task is performed by the PCA or nurse. MassHealth modified the request to six times per day to allow time for the PCA to assist the nurse – four times with the straight catheterization, and twice for assistance with the Foley catheter. The MassHealth nurse consultant stated that MassHealth authorized 10 minutes per event for this task last year.

The appellant's attorney argued that the time per event that has been authorized is insufficient – it takes more time to perform the task and is a two-person task. The task takes 25 minutes because of all the appellant's needs (described above). The appellant's mother stated that the process takes a long time; the appellant is sometimes positioned on her side, the catheter is placed, her legs are

kept apart, a caregiver massages her bladder, and the equipment is rotated to deal with a collapsed bladder.

### **Toileting/Bowel Care**

The appellant requested 25 minutes, seven days per week (totaling 175 minutes) for PCA assistance with bowel care (Exhibit 9, p. 22). MassHealth modified the request to 15 minutes, seven days per week (totaling 105 minutes). MassHealth modified these requests because the time requested is longer than is required for someone with the appellant's physical needs. Further, MassHealth modified the request because some of these services are available to the appellant at no cost to her from another legal entity already obligated to provide these services (a nurse). The documentation submitted states that the appellant's bowel regimen includes a suppository in the morning with digital stimulation. The PCA positions the appellant and provides hygiene and clothing adjustment. In its deferral response, the PCM agency noted that the appellant receives a suppository and is incontinent several times per day (liquid stool). She uses a chucks pad instead of briefs to minimize mess.

The appellant's attorney stated that this task requires two people and takes 25 minutes, not 15. During the appellant's recent hospitalizations, her physician diagnosed that she has stool backing up into her vagina (Exhibit 7B, p. 023). The physician noted that she needs proper vulvar and peroneal care, as she is susceptible to infection. The appellant's neuro-oncological specialist noted that visual assessment of output is critical because of a history of bowel obstruction (Exhibit 7B, p. 014).

The appellant's mother stated that the stool is manually removed, and the entire area is cleaned with gauze and foaming soap and a special wash. The stool is liquid, and rashes can occur. Vaginal protection gauze is applied. Two creams are applied to the area. A grey fabric is applied to maintain dryness.

### **Other Healthcare Needs/Bleach Baths**

The appellant requested 60 minutes, three days per week (totaling 180 minutes) for PCA assistance with bleach baths (Exhibit 9, p. 27). MassHealth denied the request because the documentation submitted indicates that the requested services do not meet the professionally recognized standards of healthcare. Further, MassHealth modified the request because some of these services are available at no cost to her from another legal entity already obligated to provide these services. The documentation states that the appellant needs bleach baths in soaking tub three times per week for treatment of skin effects related to chemotherapy, pain management due to compression fractures and lesions. A Hoyer is used to transfer appellant in and out of the tub. The appellant requires continuous monitoring due to risk of low/high ICP related to VP shunt. The time requested includes Hoyer transfer in and out of bed, and in and out of tub (20x2x3).

The MassHealth nurse consultant testified that this request was denied because there was no documentation to demonstrate that this was medically necessary. Further, monitoring is not covered as part of MassHealth's PCA program. The appellant's attorney referred to a letter from a dermatologist which states that the bleach bath is necessary due to the effects of chemotherapy on the appellant's skin. She needs hands-on assistance throughout the entire task to keep the appellant from slipping under the water.

#### **Other Healthcare Needs/Donning and Doffing AFOs**

The appellant requested five minutes, six times per day, seven days per week (totaling 210 minutes) for PCA assistance with donning and doffing AFOs (Exhibit 9, p. 27). MassHealth modified the request to five minutes, three times per day, seven days per week (totaling 105 minutes). MassHealth modified these requests because the time requested is longer than is required for someone with the appellant's physical needs. Further, MassHealth modified the request because some of these services are available at no cost to her from another legal entity already obligated to provide these services. The documentation states that the PCA to don and doff AFOs to bilateral lower extremities before consumer is transferred out of bed. Additional time needed due to contracture to bilateral extremities. The Form CMS-485 states that the nurse is to perform personal care, including donning the AFOs (Exhibit 9, p. 77). Thus, MassHealth authorized time for the PCA to doff the AFOs.

The appellant's attorney responded and stated that the amount of time requested is not realistic. This task occurs more than six times per day.

#### **Other Healthcare Needs/Donning and Doffing Back Brace**

The appellant requested seven minutes, six times per day, seven days per week (totaling 294 minutes) for PCA assistance with donning and doffing a back brace (Exhibit 9, p. 27). MassHealth modified the request to seven minutes, three times per day, seven days per week (totaling 147 minutes). MassHealth modified these requests because the time requested is longer than is required for someone with the appellant's physical needs. Further, MassHealth modified the request because some of these services are available at no cost to her from another legal entity already obligated to provide these services. The documentation states that the PCA is to don back brace when consumer out of bed and removed when back in bed due to severe chronic back pain, broken vertebrae and advanced osteoporosis. MassHealth modified the frequency because it stands to reason that a nurse would help with this task.

#### **Meal Preparation**

The appellant requested 75 minutes per day, seven days per week (totaling 525 minutes) for PCA assistance with meal preparation (Exhibit 9, p. 32). MassHealth modified the request to 15 minutes per day, seven days per week (totaling 105 minutes), MassHealth modified these requests because

the time requested is longer than is required for someone with the appellant's physical needs. Further, MassHealth modified the request because some of these services are available at no cost to her from another legal entity already obligated to provide these services. Per the PCM agency's deferral response, the appellant receives her primary nutrition via G-tube. The appellant is G-tube fed 18 hours per day, and the PCA prepares liquids for the appellant to sip. MassHealth argues that per Form CMS-485, the nurse would help with drinks. Nevertheless, MassHealth authorized 15 minutes per day for the PCA to assist with the preparation of liquids. Per documentation, the appellant is "NPO."

The appellant's attorney repeated that the appellant is doing 75 swallows per day. Further, the goal is to keep the appellant interested in food, and to make sure she can swallow her chemotherapy pills. As a practical matter, the PCA is preparing three meals per day, plus a snack. The appellant is requesting daily assistance as follows: 15 minutes for breakfast, 25 minutes for lunch, 30 minutes for dinner, and 5 minutes for a snack. The appellant's attorney referred to the speech therapist's letter regarding the necessity of swallowing.

### **Medical Transportation**

The appellant requested 175 minutes per week for PCA assistance with medical transportation (Exhibit 9, p. 36). MassHealth modified the request to 77 minutes per week because of duplicate entries for transportation to neuro-oncology/chemo and GI, Children's Hospital. MassHealth modified the request because the time requested is longer than ordinarily required; these two providers are listed twice on the travel form, and the duplicates were not considered. *Id.*

The appellant's mother testified that the appellant sees 33 specialists. The appellant's attorney stated that the family travels to Boston frequently for medical appointments, and each trip takes two hours, each way. The requested time of 175 minutes per week does not even cover the time needed for assistance with medical transportation. Last year, MassHealth authorized more than 400 hours per week for assistance with this task.

The MassHealth nurse consultant responded and stated that if the appellant sees additional providers, the PCM agency should request an adjustment along with an accurate travel form.

### **Findings of Fact**

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

1. The appellant is a female in her early twenties who lives with her parents.
2. The appellant has the following diagnoses: [REDACTED], which is a rare malignant cancer of the meninges (the lining of the spinal cord and brain), paraplegia, a ventral peritoneal shunt,

seizures, migraines, multiple thoracic vertebral fractures, G-tube fed, a recent foot fracture, chronic pain, localized edema, neuromuscular dysfunction of the bladder, and tremors.

3. The appellant is non-ambulatory and uses a manual tilt-in-space wheelchair, a power wheelchair with power tilt and recline, power-elevated leg rests, and a semi-electric hospital bed with a power pressure-reducing mattress.
4. The appellant participates in MassHealth's MFP Waiver program.
5. As part of that program, the appellant is authorized to receive between 101 and 168 skilled nursing hours per week, and 78 HHA hours per week.
6. The HHA typically works from 11 pm to 7 am.
7. The appellant utilizes an average of 71.5 nursing hours per week.
8. The appellant is also authorized to receive 10 occupational therapy sessions per month, and 10 physical therapy sessions per month.
9. On September 20, 2024, the appellant's PCM services agency submitted a PA re-evaluation request to MassHealth on the appellant's behalf, seeking the following: 125 hours and 45 minutes of day/evening PCA assistance per week.
10. MassHealth initially deferred the request because it did not include sufficient documentation to support the medical necessity for the increase in services; the PCM services agency responded to the deferral request.
11. By notice dated October 15, 2024, MassHealth modified the requested time to the following: 68 hours of day/evening PCA assistance per week.
12. The time period for this PA request is October 16, 2024 through October 15, 2025.
13. The appellant's mother works as her PCA.
14. The appellant requested five minutes, six times per day, seven days per week (totaling 210 minutes) for PCA assistance with mobility.
  - MassHealth modified the request to three minutes, six times per day, seven days per week (total 126 minutes).
  - MassHealth clarified that this task only involves helping the appellant move from one room to another, in either her manual or power wheelchair.

- The appellant's caregivers must be very careful when moving the appellant because of the blood clots up and down her legs and in her femoral artery, and because of the compression fractures in her back.
  - The appellant experiences frequent headaches, nausea, and vomiting, and must therefore move slowly.
  - The appellant is either pushed in her manual wheelchair or, when the appellant is in her power wheelchair, the caregiver provides hand over hand assistance on the joystick when the appellant moves from room to room.
15. The appellant requested 25 minutes, six times per day, seven days per week (totaling 1,050 minutes) for PCA assistance with transfers.
- MassHealth modified the request to 15 minutes, six times per day, seven days per week (totaling 630 minutes).
  - The appellant has a hydraulic lift, a ceiling mounted lift, and a video monitor.
  - The appellant requires the assistance of two people to transfer via Hoyer lift.
  - The transfer process is a painstaking process where the appellant is moved in 10-degree increments due to her pain, nausea, fragility, and other issues.
  - The transfer process as a lengthy ordeal that takes, on average, 25 minutes per episode.
16. The appellant requested seven minutes, four times per day, seven days per week (totaling 196 minutes), and five minutes, 10 times per day, seven days per week (totaling 350 minutes) for PCA assistance with repositioning.
- MassHealth modified the request to five minutes, 10 times per day, seven days per week (totaling 350 minutes).
  - The appellant is totally dependent for repositioning every two hours for skin integrity, offloading pressure points to prevent breakdown.
  - The documentation also states that the appellant needs additional repositioning two times per hour of upper torso angle in all directions due to need for VP shunt drainage.
  - The appellant is repositioned during activities during the day, including with toileting, bathing, occupational therapy, physical therapy, appointment, dressing, and nursing care.
  - The appellant has an average of two medical appointments per week and is therefore out of the house these days, reducing her need for repositioning in the home.
  - The appellant also has two wheelchairs which have tilt options.
  - The Form CMS-485 sets forth that a nurse is authorized to assist with repositioning every two hours using a pressure relief device pillow.
  - The appellant has spasms, contractures, and pain from her tumor burden, all of which make repositioning difficult; the appellant's knees are folded before repositioning.
17. The appellant requested 10 minutes, two times per day, seven days per week to each extremity (totaling 560 minutes) for PCA assistance with passive range of motion exercises.



- MassHealth denied this request because the documentation submitted indicates that the requested services do not meet the professionally recognized standards of healthcare.
  - Per the Form CMS-485, the nurse is to perform passive and active range of motion exercise to the appellant's upper and lower extremities every shift, only to resistance, as tolerated.
  - MassHealth takes the position that this is a skilled task that should not be performed by an unskilled PCA.
  - The appellant's PCA is her mother; her mother has been trained to perform this task.
  - The appellant concedes that the appellant has some mobility in her upper extremities and that assistance with these limbs would be considered active range of motion.
  - The appellant receives other skilled services (physical therapy and occupational therapy) with licensed skilled providers who can also safely perform this task.
18. The appellant requested 75 minutes per day, seven days per week (totaling 525 minutes), and 15 minutes per day, seven days per week (totaling 105 minutes), for PCA assistance with bathing.
- MassHealth modified the request to 45 minutes per day, seven days per week (totaling 315 minutes).
  - Per the Form CMS-485, the nurse is to perform the task of bathing.
  - The bathing task is completed with two caregivers, and her daily shower can take at least 60 minutes.
19. The appellant requested 25 minutes per day, seven days per week (totaling 175 minutes) for PCA assistance with bathing transfers.
- MassHealth modified the request to 15 minutes per day, seven days per week (totaling 105 minutes).
  - The transfer process is a lengthy ordeal that takes on average, 25 minutes per episode.
20. The appellant requested five minutes per day, two times per day, seven days per week (totaling 70 minutes) for PCA assistance with grooming/oral care.
- MassHealth modified the request to five minutes per day, once per day, seven days per week (totaling 35 minutes).
  - Per the Form CMS-485, the nurse is to perform personal care, including oral care twice per day (tooth brushing and tongue scraping to prevent thrush).
  - MassHealth modified the request to allow the PCA time to assist once per day to assist with this task, and the nurse to assist with the second daily oral care event.
  - Oral care is typically performed three times per day, and the nurse does not always participate because the appellant refuses.
21. The appellant requested 10 minutes per day, seven days per week (totaling 70 minutes) for PCA assistance with grooming/lotion.

- MassHealth modified the request to five minutes per day, seven days per week (totaling 35 minutes).
  - Per the Form CMS-485, the nurse is to perform personal care, including skin care as needed.
  - Radiation has created very thin skin, and thus lotion must be applied multiple times per day.
22. The appellant requested 25 minutes per day, seven days per week (totaling 175 minutes) for PCA assistance with dressing, and 20 minutes per day, seven days per week (totaling 140 minutes) for PCA assistance with undressing.
- MassHealth modified the request to 20 minutes per day, seven days per week (totaling 140 minutes) for dressing, and 15 minutes per day, seven days per week (totaling 105 minutes) for undressing.
  - Per the Form CMS-485, the nurse is to perform personal care, including dressing.
  - The appellant is totally dependent for this task, and the process is very slow given all the appellant's medical issues and fragility.
23. The appellant requested 20 minutes, three times per day, seven days per week (totaling 420 minutes) for PCA assistance with eating.
- MassHealth modified the request to 10 minutes, three times per day, seven days per week (totaling 210 minutes).
  - The appellant is G-tube fed, administered continuously, other than when she receives her chemotherapy medication twice daily.
  - Per the Form CMS-485, a nurse is to perform G-tube feeds, continuous.
  - This request was initially deferred for clarification as to whether the appellant was taking solids by mouth. The response stated that the appellant does not take solids by mouth but is constantly sipping liquids due to severe dry mouth related to medications.
  - Documentation also indicates that the appellant has difficulty swallowing, eating food by mouth, and drinking, and that she is at high risk for aspiration and choking.
  - The appellant needs to have 75 swallows per day.
24. The appellant requested 25 minutes, four times per day, seven days per week (totaling 700 minutes), and 12 minutes, two times per day, seven days per week (totaling 168 minutes), for PCA assistance with bladder care.
- MassHealth modified the request to 10 minutes, six times per day, seven days per week (totaling 420 minutes).
  - The appellant requires straight catheterization four times per day due to a neurogenic bladder; the nurse is ordered to perform this task.
  - The appellant's straight catheterization can take 25 minutes; the task involves the following process: the appellant is positioned on her side, the catheter is placed, her

legs are kept apart, a caregiver massages her bladder, and the equipment is rotated to deal with a collapsed bladder.

- The PCA assists with the straight catheterization by positioning the appellant's legs and pulling them apart.
- The PCA does the same with the Foley catheterization; she also empties the Foley bag two times overnight and ensures proper flow to prevent back-up.
- The PCA performs hygiene, clothing adjustment, and changes absorbent products as needed for skin integrity.

25. The appellant requested 25 minutes, seven days per week (totaling 175 minutes) for PCA assistance with bowel care.

- MassHealth modified the request to 15 minutes, seven days per week (totaling 105 minutes).
- The documentation submitted states that the appellant's bowel regimen includes a suppository in the morning with digital stimulation.
- The PCA positions the appellant and provides hygiene and clothing adjustment.
- The appellant needs proper vulvar and peroneal care, as she is susceptible to infection.
- The stool is manually removed, and the entire area is cleaned with gauze and foaming soap and a special wash; vaginal protection gauze is applied; two creams are applied to the area; a grey fabric is applied to maintain dryness.

26. The appellant requested 60 minutes, three days per week (totaling 180 minutes) for PCA assistance with bleach baths.

- MassHealth denied the request because the documentation submitted indicates that the requested services do not meet the professionally recognized standards of healthcare.
- The documentation states that the appellant needs bleach baths in soaking tub three times per week for treatment of skin effects related to chemotherapy, and for pain management due to compression fractures and lesions.
- The appellant requires continuous monitoring due to risk of low/high ICP related to VP shunt.
- The PCA is to stay with the appellant during the soaking bath.
- The time requested includes Hoyer transfer in and out of bed and in and out of the tub (20x2x3).

27. The appellant requested five minutes, six times per day, seven days per week (totaling 210 minutes) for PCA assistance with donning and doffing AFOs.

- MassHealth modified the request to five minutes, three times per day, seven days per week (totaling 105 minutes).
- The documentation states that the PCA to don and doff AFOs to bilateral lower extremities before consumer is transferred out of bed and removed when transferred back in bed, and that additional time needed due to contracture to bilateral extremities.

- Per the Form CMS-485, the nurse is to perform personal care, including donning the AFOs.
  - MassHealth authorized time for the PCA to doff the AFOs.
28. The appellant requested seven minutes, six times per day, seven days per week (totaling 294 minutes) for PCA assistance with donning and doffing a back brace.
- MassHealth modified the request to seven minutes, three times per day, seven days per week (totaling 147 minutes).
  - The documentation states that the PCA is to don back brace when consumer out of bed and removed when back in bed due to severe chronic back pain, broken vertebrae and advanced osteoporosis, and that all this must be done in a timely manner as consumer is in chronic severe pain with vertigo, stiffness, and below waist paralysis.
  - MassHealth modified the frequency based on the rationale that a nurse would help with this task.
29. The appellant requested 75 minutes per day, seven days per week (totaling 525 minutes) for PCA assistance with meal preparation.
- MassHealth modified the request to 15 minutes per day, seven days per week (totaling 105 minutes).
  - Per the PCM agency's deferral response, the appellant receives her primary nutrition via G-tube.
  - The appellant is G-tube fed 18 hours per day, and the PCA prepares liquids for the appellant to sip.
  - MassHealth authorized 15 minutes per day for the PCA to assist with the preparation of liquids.
  - Per documentation, the appellant is "NPO."
30. The appellant requested 175 minutes per week for PCA assistance with medical transportation.
- MassHealth modified the request to 77 minutes per week because of duplicate entries for transportation to neuro-oncology/chemo and GI, Children's Hospital.
  - These two providers are listed twice on the travel form, and the duplicates were not considered in the calculation of time for medical transportation.

## **Analysis and Conclusions of Law**

MassHealth regulations regarding PCA services are found at 130 CMR 422.000 et seq. Regulation 130 CMR 422.402 defines a PCA as a person who is hired by the member or surrogate to provide PCA services, which are further defined as assistance with the activities of daily living (ADLs) and instrumental activities of daily living (IADLs) as described in 130 CMR 422.410.

Pursuant to 130 CMR 422.403(C), MassHealth covers PCA services when: (1) they are prescribed by a physician; (2) the member's disability is permanent or chronic in nature; (3) the member 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 or grooming; (d) dressing or undressing; (e) range-of-motion exercises; (f) eating; and (g) toileting; and (4) MassHealth has determined that the PCA services are medically necessary and has granted a prior authorization for PCA services.

Activities of daily living are listed at 130 CMR 422.410(A) and include mobility, assistance with medications or other health-related needs, bathing/grooming, dressing and undressing, passive range-of-motion exercises, eating, and toileting (including bowel care and bladder care). MassHealth pays for PCA time in physically assisting members to perform the aforementioned activities of daily living.

Instrumental activities of daily living are those activities described in 130 CMR 422.410(B) 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 personal care services. MassHealth pays for PCA time in physically assisting members to perform the instrumental activities of daily living (130 CMR 422.402).

Pursuant to 130 CMR 422.410(C), 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.

Further, pursuant to 130 CMR 422.412, "Non-Covered 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, or a resident of a provider-operated residential facility subject to state licensure, such as a group home;
- (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;
- (G) surrogates, as defined in 130 CMR 422.402; or
- (H) PCA services provided to a member without the use of EVV as required by the MassHealth agency.

Pursuant to 130 CMR 450.204(A), MassHealth 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 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 MassHealth. Services that are less costly to MassHealth include, but are not limited to, health care reasonably known by the provider, or identified by MassHealth 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.

MassHealth has also issued Time-for-Tasks Guidelines for the MassHealth PCA Program; these guidelines provide sub-regulatory guidance for determining the amount of PCA time required to perform activities of daily living (ADLs) and instrumental activities of daily living (IADLs). The guidelines were developed to be used by nurses who evaluate a consumer's need for PCA services

and by clinical reviewers of prior-authorization requests for MassHealth PCA services.<sup>3</sup>

### **Mobility**

The appellant requested five minutes, six times per day, seven days per week (totaling 210 minutes) for PCA assistance with mobility. MassHealth modified the request to three minutes, six times per day, seven days per week (totaling 126 minutes). MassHealth clarified that this task only involves helping the appellant move from one room to another, in either her manual or power wheelchair, and argues that three minutes should be sufficient to assist the appellant from one room to another, given that wait time is not covered or considered when calculating the time. The appellant argues that this task takes at least five minutes because caregivers must be very careful when moving the appellant because of the blood clots up and down her legs and in her femoral artery, and because of the compression fractures in her back. She also experiences frequent headaches, nausea, and vomiting, and must therefore move slowly.

The appellant has demonstrated that five minutes is needed to assist her in her wheelchair from one room to another. According to the “Time-For-Tasks Guidelines for the MassHealth PCA Program,” the average time estimate for someone totally dependent for this task (as is the appellant) is five minutes (see Guidelines, p. 2). The time requested is within the parameters of the guidelines. The appellant must travel slowly and with care and has demonstrated that she needs all the time requested for assistance with this task. This portion of the appeal is approved.

### **Transfers**

The appellant requested 25 minutes, six times per day, seven days per week (totaling 1,050 minutes) for PCA assistance with transfers. MassHealth modified the request to 15 minutes, six times per day, seven days per week (totaling 630 minutes). MassHealth modified the request because the time requested is longer than is required for someone with the appellant’s physical needs and because the Form CMS-485 provides that a nurse is to perform Hoyer lift transfers. The appellant stated that the nurse does assist but argues that this task requires two people and takes at least 25 minutes per transfer.

According to the “Time-For-Tasks Guidelines for the MassHealth PCA Program,” the average time estimate for a mechanical lift transfer is 15 minutes (see Guidelines, p. 1). The appellant has demonstrated that she does not represent the “average” consumer who uses a Hoyer lift to transfer. The appellant’s mother described the transfer process as a painstaking process where the appellant

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<sup>3</sup> This document is not available on MassHealth’s website. It has been made available pursuant to a public records request.

(<https://www.masslegalservices.org/system/files/library/Time-for-Tasks%20Guidelines%20for%20the%20MassHealth%20PCA%20Program.pdf>)

is moved in 10-degree increments due to her pain, nausea, fragility, and other issues. The appellant's mother credibly described the transfer process as a lengthy ordeal that takes on average, 25 minutes per episode. This portion of the appeal is approved.

### **Repositioning**

The appellant requested seven minutes, four times per day, seven days per week (totaling 196 minutes), and five minutes, 10 times per day, seven days per week (totaling 350 minutes) for PCA assistance with repositioning. MassHealth modified the request to five minutes, 10 times per day, seven days per week (totaling 350 minutes). The documentation states that the appellant is totally dependent for repositioning every two hours for skin integrity, offloading pressure points to prevent breakdown. The documentation also states that the appellant needs additional repositioning two times per hour of upper torso angle in all directions due to need for VP shunt drainage. The documentation states that a change of position is needed to allow cerebral spinal fluid to shift to prevent clogging.

MassHealth argues that the appellant is repositioned during activities during the day, including during toileting, bathing, occupational therapy, physical therapy, appointments, dressing, and nursing care. MassHealth noted that the appellant also has two wheelchairs which have tilt options, and that a caregiver can also put a pillow under her to slightly change her position at any time. The appellant argues that this task takes more time than is typical and occurs very frequently, sometimes two to three times per hour. The appellant, however, has not demonstrated that MassHealth's authorization fails to meet her needs. The appellant did not present any specific evidence to suggest that five minutes per event is insufficient (and in fact a portion of the request seeks only five minutes of assistance per episode). Further, the frequency authorized (10 times per day) does not represent the only repositioning opportunities for the appellant. As noted by MassHealth, the appellant participates in many activities throughout the day, and most involve some form of repositioning. This portion of the appeal is denied.

### **Passive Range of Motion**

The appellant requested 10 minutes, two times per day, seven days per week to each extremity (totaling 560 minutes) for PCA assistance with passive range of motion exercises. MassHealth denied the request because the documentation submitted indicates that the requested services do not meet the professionally recognized standards of healthcare, and because per the Form CMS-485, the nurse is to perform passive and active range of motion exercise to the appellant's upper and lower extremities every shift, only to resistance, as tolerated. MassHealth takes the position that because of the appellant's fragility, this is a skilled task that should not be performed by an unskilled PCA. The appellant disagrees and argues that the appellant's PCA, her mother, has been adequately trained to perform this task.



The appellant's attorney stated at the hearing the appellant has some mobility in her upper extremities and that assistance with these limbs would be considered active range of motion. The appellant argues, however, that the appellant needs passive range of motion assistance with her lower extremities, and that this task is performed by both the nurse and the PCA. The physical therapy note submitted provides that the appellant has swelling and decreased range of motion in her bilateral lower extremities but remains stable with continued massage and passive range of motion throughout the day. The appellant's mother provided credible testimony that she has been extensively trained and works under the guidance of the appellant's physical therapist. While she is not a skilled clinician, she is the appellant's parent and has been performing this task since the appellant's diagnosis.<sup>4</sup> The appellant has demonstrated that the requested time for assistance with passive range of motion exercises to her lower extremities is medically necessary. This portion of the appeal is approved in part (280 minutes of the 560 minutes requested to be approved).

### **Bathing**

The appellant requested 75 minutes per day, seven days per week (totaling 525 minutes), and 15 minutes per day, seven days per week (totaling 105 minutes), for PCA assistance with bathing. MassHealth modified the request to 45 minutes per day, seven days per week (totaling 315 minutes). MassHealth modified the request because the time requested is longer than is required for someone with the appellant's physical needs and because per the Form CMS-485, the nurse is to perform the task of bathing. The appellant argues that a total of 90 minutes per day is needed for bathing (a daily shower and bed bath), and the task takes two people to complete because the appellant has spasticity, contractures, pain, vertigo, tumors, and femoral artery clots.

According to the "Time-For-Tasks Guidelines for the MassHealth PCA Program," the average time estimate for someone totally dependent for this task is 60 minutes per day (see Guidelines, p. 5). Here, the appellant confirmed that two people are performing this task, which should streamline the process. The appellant has not demonstrated that, with two caregivers assisting, the time for this task should exceed the time set forth in the guidelines. Further, the appellant has demonstrated that 15 minutes per day for assistance with a bed bath is reasonable and necessary. This portion of the appeal is approved in part (60 minutes per day, plus 15 minutes per day, or 525 minutes per week).

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<sup>4</sup> The PCA Operating Standards, which also provide sub-regulatory guidance, direct that in pediatric cases, skilled care services are not appropriate for a PCA and should be performed by a skilled clinician or a parent. Although the appellant is not a pediatric member, the same rationale can be applied here. That the parent in this case is also the PCA should not change the analysis.

(<https://www.masslegalservices.org/system/files/library/PCA%20Operating%20Standards.pdf>)

### **Bathing Transfers**

The appellant requested 25 minutes per day, seven days per week (totaling 175 minutes) for PCA assistance with bathing transfers. MassHealth modified the request to 15 minutes per day, seven days per week (totaling 105 minutes). The appellant clarified that this task requires two people and noted that the appellant is not transferred directly from bed to her shower chair. Rather, she is transferred first to her wheelchair and then into the shower chair. Given these steps, the appellant has demonstrated that the time requested for bathing transfers is medically necessary. This portion of the appeal is approved.

### **Grooming/Oral Care**

The appellant requested five minutes per day, two times per day, seven days per week (totaling 70 minutes) for PCA assistance with grooming/oral care. MassHealth modified the request to five minutes per day, once per day, seven days per week (totaling 35 minutes). MassHealth modified the request because the time requested is longer than is required for someone with the appellant's physical needs, and because per the Form CMS-485, the nurse is to perform personal care, including oral care twice per day (tooth brushing and tongue scraping to prevent thrush). MassHealth modified the request to allow the PCA time to assist once per day to assist with this task, and the nurse to assist with the second daily oral care event. The appellant argues that at times the appellant refuses the nurse's assistance. This argument is not related to medical necessity, and the appellant has not established the medical necessity of additional PCA time here. This portion of the appeal is denied.

### **Grooming/Lotion**

The appellant requested 10 minutes per day, seven days per week (totaling 70 minutes) for PCA assistance with grooming/other (lotion). MassHealth modified the request to five minutes per day, seven days per week (totaling 35 minutes). MassHealth modified the request because the time requested is longer than is required for someone with the appellant's physical needs and because per the Form CMS-485, the nurse is to perform personal care, including skin care as needed. The appellant argues that this task takes longer than five minutes to complete, and that the nurse and the PCA share this task. The appellant did present any compelling evidence to demonstrate that a lotion application takes more than five minutes. The appellant's mother stated that lotion is applied multiple times per day, but MassHealth did not modify the frequency here. According to the "Time-For-Tasks Guidelines for the MassHealth PCA Program," the average time estimate for someone totally dependent for grooming tasks is 25 minutes per day (per day for all grooming tasks) (see Guidelines, p. 5). Here, MassHealth has authorized more than 25 minutes for all grooming tasks (including nail care) (p. 18). This portion of the appeal is denied.

### **Dressing/Undressing**

The appellant requested 25 minutes per day, seven days per week (totaling 175 minutes) for PCA assistance with dressing, and 20 minutes per day, seven days per week (totaling 140 minutes) for PCA assistance with undressing. MassHealth modified the request to 20 minutes per day, seven days per week (totaling 140 minutes) for dressing, and 15 minutes per day, seven days per week (totaling 105 minutes) for undressing. MassHealth modified these requests because the time requested is longer than is required for someone with the appellant's physical needs, and because per the Form CMS-485, the nurse is to perform personal care, including dressing. The appellant argues that this task takes the time requested (or longer) and is a two-person task. It is undisputed that the appellant is totally dependent for this task. According to the "Time-For-Tasks Guidelines for the MassHealth PCA Program," the average time estimate for someone totally dependent for dressing/undressing is 30/20 minutes per day (see Guidelines, p. 8). The appellant's request is within the guidelines, and although two people sometimes perform this task, which should speed things up, her fragility and pain warrant the time requested. This portion of the appeal is approved.

### **Eating**

The appellant requested 20 minutes, three times per day, seven days per week (totaling 420 minutes) for PCA assistance with eating. MassHealth modified the request to 10 minutes, three times per day, seven days per week (totaling 210 minutes). MassHealth modified this request because the time requested is longer than is required for someone with the appellant's physical needs, and because per the Form CMS-485, the nurse is to perform G-tube feeds. MassHealth acknowledges that the appellant tries to swallow 75 times per day and allowed time for the PCA to assist with fluid assistance. The appellant argues that the PCA uses food for the swallows, as it is a goal for the appellant to take more food by mouth. The documentation indicates that the appellant is at high risk for aspiration and that her nutritional needs are met via the G-tube. The appellant has therefore not demonstrated that additional time is needed for PCA assistance with eating. The nurse performs the G-tube feeds, and the PCA has been authorized time to provide fluid assistance. This portion of the appeal is denied.

### **Toileting/Bladder Care**

The appellant requested 25 minutes, four times per day, seven days per week (totaling 700 minutes), and 12 minutes, two times per day, seven days per week (totaling 168 minutes), for PCA assistance with bladder care. MassHealth modified the request to 10 minutes, six times per day, seven days per week (totaling 420 minutes). MassHealth modified these requests because the time requested is longer than is required for someone with the appellant's physical needs and because the nurse performs a portion of this task. MassHealth did not modify the frequency but rather modified the time per episode related to the straight catheter and the Foley catheter.

According to documentation, the PCA assists with the straight catheterization by positioning the appellant's legs and pulling them apart. The PCA does the same with the Foley catheterization and empties the Foley bag two times overnight and ensures proper flow to prevent back up. The PCA performs hygiene, clothing adjustment, and changes absorbent products as needed for skin integrity. MassHealth authorized 10 minutes per event for assistance with this task last year. The appellant argues that the straight catheterization takes 25 minutes: the appellant is positioned on her side, the catheter is placed, her legs are kept apart, a caregiver massages her bladder, and the equipment is rotated to deal with a collapsed bladder.

According to the "Time-For-Tasks Guidelines for the MassHealth PCA Program," the average time estimate for someone totally dependent for toileting/bladder care is 25 minutes per task (see Guidelines, p. 10). The appellant's request is within this range, and the testimony was credible. This portion of the appeal is approved.

### **Toileting/Bowel Care**

The appellant requested 25 minutes, seven days per week (totaling 175 minutes) for PCA assistance with bowel care. MassHealth modified the request to 15 minutes, seven days per week (totaling 105 minutes). MassHealth modified these requests because the time requested is longer than is required for someone with the appellant's physical needs. The documentation submitted states that the appellant's bowel regimen includes a suppository in the morning with digital stimulation; the PCA positions the appellant and provides hygiene and clothing adjustment. The appellant argues that this task takes 25 minutes due to recent complications, including stool backing up into her vagina. The appellant's mother described the process of this task: stool is manually removed; the entire area is cleaned with gauze and foaming soap and a special wash; vaginal protection gauze is applied; two creams are applied to the area; and fabric is applied to maintain dryness. According to the "Time-For-Tasks Guidelines for the MassHealth PCA Program," the average time estimate for someone totally dependent for toileting/bowel care is 25 minutes per task (see Guidelines, p. 10). The appellant's request is within this range, and the testimony was credible. This portion of the appeal is approved

### **Other Healthcare Needs/Bleach Baths**

The appellant requested 60 minutes, three days per week (totaling 180 minutes) for PCA assistance with bleach baths. The documentation states that the appellant needs bleach baths in a soaking tub three times per week for treatment of skin effects related to chemotherapy, pain management due to compression fractures, and lesions. MassHealth denied the request because there was no documentation that this service has been ordered. Because the appellant did not document the medical necessity of this request, this portion of the appeal is denied.

### **Other Healthcare Needs/Donning and Doffing AFOs**

The appellant requested five minutes, six times per day, seven days per week (totaling 210 minutes) for PCA assistance with donning and doffing AFOs. MassHealth modified the request to five minutes, three times per day, seven days per week (totaling 105 minutes). MassHealth modified these requests because the time requested is longer than is required for someone with the appellant's physical needs, and because per the Form CMS-485, the nurse is to perform personal care, including donning the AFOs. Thus, MassHealth authorized time for the PCA to doff the AFOs. The appellant argues that the time authorized is not realistic; however, MassHealth did not modify the time requested per episode. Rather, MassHealth modified only the frequency based on another caregiver performing a part of the task. The appellant argues that this task occurs more than six times per day; however, the PCM agency only requested time for assistance six times per day. The appellant has not demonstrated that additional time is medically necessary, and this portion of the appeal is denied.

### **Other Healthcare Needs/Donning and Doffing Back Brace**

The appellant requested seven minutes, six times per day, seven days per week (totaling 294 minutes) for PCA assistance with donning and doffing a back brace. MassHealth modified the request to seven minutes, three times per day, seven days per week (totaling 147 minutes). MassHealth modified the frequency based on an assumption that a nurse assists with this task. However, the documentation states that the PCA dons and doffs the back brace due to severe chronic back pain, broken vertebrae and advanced osteoporosis. The appellant has demonstrated that the requested time is medically necessary, and this portion of the appeal is approved.

### **Meal Preparation**

The appellant requested 75 minutes per day, seven days per week (totaling 525 minutes) for PCA assistance with meal preparation. MassHealth modified the request to 15 minutes per day, seven days per week (totaling 105 minutes), MassHealth modified these requests because the appellant receives all her nutrition via G-tube, and there is no medical necessity for assistance with meal preparation. MassHealth allowed some time for the PCA to prepare liquids for the appellant to utilize for her swallowing exercises. The appellant argues that the PCA prepares three meals per day for the appellant, plus a snack. As more fully described above under the category of "eating" the appellant has not demonstrated that this task is medically necessary, and this portion of the appeal is denied.

### **Medical Transportation**

The appellant requested 175 minutes per week for PCA assistance with medical transportation. MassHealth modified the request to 77 minutes per week because of duplicate entries for transportation to neuro-oncology/chemo and GI, Children's Hospital; these two providers are listed

twice on the travel form, and the duplicates were not considered (Exhibit 9, p. 36). The appellant argued that she sees many specialists in Boston, and the travel time is extensive. This argument is unrelated to the duplicate entries on the form. The appellant has not demonstrated that the requested time is medically necessary, and this portion of the appeal is denied.

## Order for MassHealth

For the PA period at issue, authorize the following **additional** time for PCA assistance:

**Mobility:** 84 minutes per week (210 – 126)

**Transfers:** 420 minutes per week (1,050 – 630)

**Passive Range of Motion:** 280 minutes per week (560 – 280)

**Bathing:** 210 minutes per week (525 – 315)

**Bathing Transfers:** 70 minutes per week (175 – 105)

**Dressing/Undressing:** 70 minutes per week (315 – 245)

**Toileting/Bladder Care:** 448 minutes per week (868 – 420)

**Toileting/Bowel Care:** 70 minutes per week (175 – 105)

**Other Healthcare Needs/Donning and Doffing Back Brace:** 147 minutes per week (294 – 147)

Notify the appellant of updated authorized PCA hours accordingly; and remove aid pending.

## 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 30 days after the date of this decision, you should contact Optum. 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.

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Kimberly Scanlon  
Hearing Officer  
Board of Hearings

cc:

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

Appellant Representative: [REDACTED]

Appellant Representative: [REDACTED]

Appellant Representative: [REDACTED]