

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2417157
Decision Date:	2/3/2025	Hearing Date:	12/12/2024
Hearing Officer:	Casey Groff		

Appearance for Appellant:



Appearance for MassHealth:

Kelly Rayen, R.N., Clinical Reviewer, 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:	Approved	Issue:	Personal Care Attendant (PCA) Services
Decision Date:	2/3/2025	Hearing Date:	12/12/2024
MassHealth's Rep.:	Kelly Rayen, R.N.	Appellant's Rep.:	<i>Pro se</i> ; PCA
Hearing Location:	Board of Hearings, Remote	Aid Pending:	No

Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapter 118E, Chapter 30A, and the rules and regulations promulgated thereunder.

Jurisdiction

Through a notice dated 11/6/24, MassHealth informed Appellant that it modified her prior authorization request for personal care attendant (PCA) services. *See* 130 CMR 450.204.(A)(1) and Exhibit 1. Appellant filed a timely appeal on 11/6/24. *See* 130 CMR 610.015(B); Exhibit 2. Modification of prior authorization request for services is a valid basis for appeal. *See* 130 CMR 610.032.

Action Taken by MassHealth

MassHealth modified Appellant's prior authorization request for PCA services.

Issue

The issue on appeal is whether MassHealth was correct in modifying Appellant's request for PCA services.

Summary of Evidence

At hearing, MassHealth was represented by a registered nurse/clinical appeals reviewer. Through testimony and documentary submissions, the MassHealth representative presented the following evidence: Appellant is over the age of [REDACTED] and is an enrolled consumer in MassHealth's Personal Care Attendant (PCA) program. On 10/29/24, a registered nurse from Appellant's personal care management (PCM) agency, [REDACTED] performed an in-home reevaluation of Appellant to assess her continued need for PCA services. See Exh. 4, p. 4-6. According to documentation submitted by the PCM agency, the primary diagnoses that prevent Appellant from being able to independently perform activities of daily living (ADLs) and instrumental activities of daily living (IADLs) were listed as follows: multiple sclerosis, brain injury secondary to motor vehicle accident, lumbar radiculopathy, and spondylosis in lumbar and lumbosacral region. *Id.* at 6. In addition, Appellant has left-sided weakness, bilateral nerve damage, osteoarthritis, and chronic pain. *Id.* She has a history of falls and urinary tract infections (UTI's) resulting in multiple hospitalizations. *Id.* at 7. In [REDACTED] Appellant was hospitalized after an accident with a lit candle in her home caused burns to her back, neck, ears, and face. *Id.* Appellant lives in her home by herself. *Id.* Pursuant to the PCA reevaluation, Appellant's PCM agency sent MassHealth a prior authorization (PA) request on behalf of Appellant, seeking 64 hours and 30 minutes per week of PCA services for dates of service 11/20/24 through 11/19/25. *Id.* at 2.

On 11/6/24, MassHealth notified Appellant that it modified her PA request by authorizing 62 hours and 45 minutes per week of PCA services for the requested time period. See Exh. 1. MassHealth approved in full all requested areas of assistance with the exception of the time requested for meal preparation and clean-up. *Id.*

According to the PA request, Appellant's PCM agency requested a total of 105 minutes per day for PCA assistance with meal preparation, comprised of 25 minutes for breakfast, 35 minutes for lunch, and 45 minutes for dinner. See Exh. 4, p. 28. In support of its request, the PCM agency noted that Appellant is dependent for all aspects of meal preparation due to limited range of motion in the bilateral lower extremities, decreased balance, unsteady gait, decreased standing tolerance, generalized weakness, decreased endurance, decreased fine motor coordination, decreased hand grasps, chronic pain, poor activity tolerance, and shortness of breath on exertion related to multiple sclerosis. *Id.* In addition, the PCM agency noted that Appellant did not live with a legally responsible person, nor did she receive meals through daytime programs or delivery services. *Id.* at 25-28.

On review, MassHealth modified this request by approving 90 minutes per of assistance day. See Exh. 1. According to the 11/6/24 notice, MassHealth concluded that the time requested was longer than ordinarily required for someone with Appellant's physical needs. *Id.* The MassHealth representative testified that 90 minutes is standard time allotted for someone, like Appellant, who is dependent on a PCA for meal preparation tasks. Additionally, the MassHealth representative explained that there was no documentation in the PA request to indicate a

special circumstance, such as allergies or a specialized diet, that would cause Appellant to exceed the time approved.

Appellant and her PCA appeared at the hearing and testified that meal preparation and clean-up tasks take at a total of at least 105 minutes per day due to the level of Appellant's needs. Appellant's PCA testified that she will make Appellant breakfast, lunch, and dinner – all before she leaves for the day. Because Appellant is unable to contribute in preparing or cleaning up after meals, all tasks are carried out by the PCA. This includes organizing the kitchen, retrieving and putting away cooking utensils and supplies, and gathering ingredients. She then prepares the meals by performing various steps such as soaking rice, peeling potatoes, chopping vegetables, and using a pan on the stovetop or oven to cook the food. In addition, the PCA testified that she performs all related clean-up, such as washing dishes and cooking equipment (e.g., pots, pans, cutting boards), wiping down counters, putting away food items, and other necessary tasks that Appellant cannot perform. The PCA testified that the requested time does not include time "waiting" for food to cook. For example, if food is cooking in the oven, she uses that time to perform another meal-prep or clean-up task. All the various steps add up to a significant amount of time.

Appellant testified that she is simply seeking the same amount of PCA hours that she had in the last PA period. She did not understand how MassHealth could reduce her PCA hours when her condition is worsening, not getting better. Even when sitting down, she cannot use her hands to help prepare meals. Appellant testified that given her numerous diagnoses she is susceptible to illness and decline. It is essential that she gets sufficient vitamin and nutrition intake, which her PCA is able to provide through preparing actual meals, as opposed to frozen dinners, which she cannot eat. Appellant testified that she relies on her PCA to cook and prepare everything for her. She has no other available caregiver or resources to provide her with meals. Appellant explained that a typical breakfast might involve toast with butter, eggs, or a BLT sandwich, with juice and coffee. For lunch, she might have rice and beans with broccoli. Dinner might involve salad, soup, pasta, or beef. Appellant expressed her belief that a reduction in PCA meal preparation time will result in a decline in her health.

Findings of Fact

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

1. Appellant is over the age of [REDACTED] and has diagnoses including multiple sclerosis, brain injury secondary to motor vehicle accident, lumbar radiculopathy, spondylosis in lumbar and lumbosacral region, left-sided weakness, bilateral nerve damage, osteoarthritis, and chronic pain, and a history of falls and UTI's resulting in multiple hospitalizations.
2. Appellant lives by herself and does not receive meals or meal preparation assistance

through other caregivers, outside programs, or meal delivery services.

3. After performing a PCA reevaluation, Appellant's PCM agency sent MassHealth a PA request on behalf of Appellant, seeking 64 hours and 30 minutes per week of PCA services for dates of service 11/20/24 through 11/19/25.
4. On 11/6/24, MassHealth notified Appellant that it modified her PA request by authorizing 62 hours and 45 minutes per week of PCA services for the requested time period, which authorized all areas of care as requested with the exception of meal preparation.
5. Appellant's PCM agency requested a total of 105 minutes per day for PCA assistance with meal preparation, comprised of 25 minutes for breakfast, 35 minutes for lunch, and 45 minutes for dinner.
6. Appellant is dependent for all aspects of meal preparation due to limited range of motion in the bilateral lower extremities, decreased balance, unsteady gait, decreased standing tolerance, generalized weakness, decreased endurance, decreased fine motor coordination, decreased hand grasps, chronic pain, poor activity tolerance, and shortness of breath on exertion related to multiple sclerosis.
7. MassHealth modified her this request by approving 90 minutes per day of assistance day on the basis that the time requested was longer than ordinarily required for someone with Appellant's physical needs.
8. Appellant's PCA prepares all meals for the Appellant each day, which includes the following tasks: retrieving and putting away all cooking utensils and supplies; gathering ingredients; performing all the food preparation tasks, such as soaking rice, peeling potatoes, chopping vegetables, and using a pan on the stovetop or oven to cook the food; and all related clean-up tasks, such as washing dishes and cookware (e.g., pots, pans, cutting boards), wiping down counters, and putting away food items.
9. Appellant's numerous conditions make her prone to illness and decline, and for this reason, she relies on the meals that her PCA prepares to help maintain her health and ensure she receives adequate nutrition.

Analysis and Conclusions of Law

MassHealth will pay for personal care attendant (PCA) services to eligible members who can appropriately be cared for in the home, so long as the following conditions are met:¹ First, the services must be “prescribed by a physician or nurse practitioner who is responsible for the member’s...care.” 130 CMR 422.403(C)(1). Additionally, the “member’s disability [must be] permanent or chronic in nature and impair the member’s functional ability to perform [at least two] ADLs ... without physical assistance.” See 130 CMR 422.403(C)(2)-(3). Finally, MassHealth must determine that the requested services are medically necessary. See 130 CMR 422.403(4). A service is “medically necessary” if:

- (1) it is reasonably calculated to prevent, diagnose, prevent the worsening of, alleviate, correct, or cure conditions in the member that endanger life, cause suffering or pain, cause physical deformity or malfunction, threaten to cause or to aggravate a handicap, or result in illness or infirmity; and
- (2) there is no other medical service or site of service, comparable in effect, available, and suitable for the member requesting the service, that is more conservative or less costly to the MassHealth agency. Services that are less costly to the MassHealth agency include, but are not limited to, health care reasonably known by the provider, or identified by the MassHealth agency pursuant to a prior-authorization request, to be available to the member through sources described in 130 CMR 450.317(C), 503.007, or 517.007.

See 130 CMR 450.204(A).

Here, there is no dispute that Appellant meets all the pre-requisites to qualify for PCA services. The sole issue on appeal is whether MassHealth allotted sufficient time for Appellant to receive medically necessary PCA assistance with meal preparation and clean-up tasks.

Under its regulations, MassHealth considers meal preparation and clean-up to be an instrumental activity of daily living (IADL). IADLs are defined as “those specific activities listed 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 PCA services. See 130 CMR 422.402 (emphasis added); see also 130 CMR 422.410(B).

When determining the amount of physical assistance required to perform an IADL, MassHealth considers the following circumstances:

¹ PCA services are defined as “physical assistance with ADLs and IADLs provided to a member by a PCA in accordance with the member’s authorized evaluation or reevaluation, service agreement, and 130 CMR 422.410.” See 130 CMR 422.002.

- (1) When a member is living with family members, the family member 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 PCA 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.

See 130 CMR 422.410(C) (emphasis added).

For all categories of PCA care, including both ADLs and IADLs, MassHealth will approve, and reimburse for, the “activity time performed by a PCA in providing assistance with the [ADL or IADL].” 130 CMR 422.411(A). MassHealth does not, however, cover assistance in the form of cueing, prompting, supervision, guiding, or coaching, or services provided by family members. See 130 CMR 422.412.

Appellant successfully demonstrated that her request for 105 minutes per day of PCA assistance with meal preparation - comprised of 25 minutes for breakfast, 35 minutes for lunch, and 45 minutes for dinner - is medically necessary and within the scope of covered PCA services under the MassHealth program. The evidence indicates that Appellant suffers from multiple sclerosis, brain injury, lumbar radiculopathy and spondylosis, osteoarthritis, chronic pain, and other medical conditions, which limit her ability to participate in all aspects of meal preparation and clean-up. See Exh. 4, p. 6-7. Appellant lives alone and does not receive meal assistance from other programs or delivery services. *Id.* at 25-28. While there was no evidence that Appellant has any specific dietary restrictions, she did testify to the importance of obtaining adequate vitamin and nutrition intake through her meals to maintain her health and prevent further decline. In conjunction with this testimony, Appellant’s PCA testified in detail to the various time-consuming steps involved in preparing Appellant’s meals, including retrieving supplies and ingredients; preparing and cooking her food, cleaning dishes, and putting food items and cleaned kitchenware away. Because Appellant is unable to perform these tasks, has no other caregiver supports, and requires whole meals to maintain her health, the requested time for PCA assistance per day for meal preparation is appropriate and necessary to meet her care needs. See 130 CMR 422.410(C)(3).

The appeal is APPROVED.

Order for MassHealth

For the PA period 11/20/24 through 11/19/25, approve Appellant’s request for PCA assistance

with meal preparation at 105x1x7 (in addition to all other previously approved ADLs/IADLs per 11/6/24 notice). Notify Appellant of updated authorized PCA hours accordingly.

Implementation of this Decision

If this decision is not implemented within 30 days after the date of this decision, you should contact your MassHealth Enrollment Center. If 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.

Casey Groff
Hearing Officer
Board of Hearings

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