

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2417238
<b>Decision Date:</b>	12/17/2024	<b>Hearing Date:</b>	12/09/2024
<b>Hearing Officer:</b>	Thomas J. Goode		

**Appearance for Appellant:**  
Mother

**Appearance for MassHealth:**  
Donna Burns, RN, 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

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	PCA Services
<b>Decision Date:</b>	12/17/2024	<b>Hearing Date:</b>	12/09/2024
<b>MassHealth's Rep.:</b>	Donna Burns, Optum	<b>Appellant's Rep.:</b>	Mother
<b>Hearing Location:</b>	Remote	<b>Aid Pending:</b>	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 October 29, 2024, MassHealth modified Appellant's prior authorization request for PCA services (130 CMR 422.000 *et seq.*, 450.204 and Exhibit 1). Appellant filed this appeal in a timely manner on November 12, 2024 (130 CMR 610.015(B) and Exhibit 2). Modification of a request for assistance is valid grounds for appeal (130 CMR 610.032).

### Action Taken by MassHealth

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

### Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 422.000 *et seq.*, 130 CMR 450.204, in modifying Appellant's prior authorization request for PCA services.

### Summary of Evidence

The MassHealth representative testified that Appellant is [REDACTED] and diagnosed with autism. On October 29, 2024, a PCA (personal care attendant) reevaluation was submitted by [REDACTED] for 13.5 Day/Evening PCA hours. For the previous prior authorization period, Appellant was

approved for 10.25 Day/Evening PCA hours. The current prior authorization request was modified to 11 PCA hours. The prior authorization period is from December 15, 2024 through December 14, 2025. The appellant's provider requested 4 minutes, twice per day, 5 days per week for PCA assistance with transfers to and from the school bus. MassHealth testified that assisting Appellant to the school bus is considered a parental responsibility and is not covered under the PCA program, and no PCA time was allowed. The appellant's provider requested 7 minutes, twice per day, 5 days per week, and 7 minutes, 3 times per day, 2 days per week on weekends for PCA assistance with eating. MassHealth did not approve any PCA time for assistance with eating because records show that Appellant is able to feed himself, and that the time requested for eating was limited to supervision. The MassHealth representative noted that PCA time for assistance with eating was requested in the previous prior authorization period and was also denied.

Appellant's representative testified that she agreed it is parental responsibility to get Appellant on and off the school bus and did not challenge the modification. Appellant's mother testified that Appellant feeds himself but needs supervision to prevent him from eating things that are not edible. Appellant testified that her physician wrote a letter stating that Appellant needs as much assistance as possible. Appellant also testified that she needs assistance in the morning when she needs to go to work and will try to arrange to have PCAs come in the morning instead of the afternoon.

## Findings of Fact

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

1. Appellant is [REDACTED] and diagnosed with autism.
2. Appellant has poor safety awareness, is easily distracted, has aggressive behaviors, noncompliance with care and inability to initiate, sequence, and complete tasks (Exhibit 4, p. 12).
3. On October 29, 2024, a PCA (personal care attendant) reevaluation was submitted by [REDACTED] for 13.5 Day/Evening PCA hours. The prior authorization request was modified to 11 PCA hours for the prior authorization period December 15, 2024 through December 14, 2025.
4. MassHealth denied PCA time requested for transfers to and from the school bus 4 minutes, twice per day, 5 days per week.
5. MassHealth denied PCA time requested for eating, 7 minutes, twice per day, 5 days per week, and 7 minutes, 3 times per day, 2 days per week on weekends.

6. Appellant can feed himself and requires supervision.
7. For the previous prior authorization period, Appellant was approved for 10.25 Day/Evening PCA hours. No PCA time for assistance with eating was approved.

## Analysis and Conclusions of Law

The PCA program provides assistance with the following:<sup>1</sup>

### 422.410: Activities of Daily Living and Instrumental Activities of Daily Living

(A) Activities of Daily Living (ADLs). Activities of daily living include the following categories of activities. Any number of activities within one category of activity is counted as one ADL

- (1) mobility: physically assisting a member who has a mobility impairment that prevents unassisted transferring, walking, or use of prescribed durable medical equipment;
- (2) assistance with medications or other health-related needs: physically assisting a member to take medications prescribed by a physician that otherwise would be self-administered;
- (3) bathing or grooming: physically assisting a member with bathing, personal hygiene, or grooming;
- (4) dressing: physically assisting a member to dress or undress;
- (5) passive range-of-motion exercises: physically assisting a member to perform range-of-motion exercises;
- (6) eating: physically assisting a member to eat. This can include assistance with tube-feeding and special nutritional and dietary needs; and
- (7) toileting: physically assisting a member with bowel or bladder needs.

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

- (1) household services: physically assisting with household management tasks that are incidental to the care of the member, including laundry, shopping, and housekeeping;
- (2) meal preparation and clean-up: physically assisting a member to prepare meals;
- (3) transportation: accompanying the member to medical providers; and
- (4) special needs: assisting the member with:

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<sup>1</sup> See also PCA Consumer Handbook available at: <https://www.mass.gov/doc/pca-consumer-handbook-personal-care-attendant-program/download>.

- (a) the care and maintenance of wheelchairs and adaptive devices;
- (b) completing the paperwork required for receiving PCA services; and
- (c) other special needs approved by the MassHealth agency as being instrumental to the health care of the member.

#### 422.411: Covered Services

(A) MassHealth covers activity time performed by a PCA in providing assistance with ADLs and IADLs as described in 130 CMR 422.410, as specified in the evaluation described in 130 CMR 422.422(C) and (D), and as authorized by the MassHealth agency.

#### 422.412: Noncovered 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.

Prior authorization determines only the medical necessity of the authorized service and does not establish or waive any other prerequisites for payment such as member eligibility or utilization of other potential sources of health care as described in 130 CMR 503.007:

*Potential Sources of Health Care* and 517.008: *Potential Sources of Health Care*. See 130 CMR 422.416.

130 CMR 450.204: Medical Necessity

The MassHealth agency does not pay a provider for services that are not medically necessary.

(A) A service is “medically necessary” if:

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

Appellant has the burden "to demonstrate the invalidity of the administrative determination." *See Andrews vs. Division of Medical Assistance*, 68 Mass. App. Ct. 228. Moreover, the burden is on the appealing party to demonstrate the invalidity of the administrative determination. *See Fisch v. Board of Registration in Med.*, 437 Mass. 128, 131 Page 9 of Appeal No.: 2309752 (2002); *Faith Assembly of God of S. Dennis & Hyannis, Inc. v. State Bldg. Code Commn.*, 11 Mass. App. Ct. 333, 334 (1981); *Haverhill Mun. Hosp. v. Commissioner of the Div. of Med. Assistance*, 45 Mass. App. Ct. 386, 390 (1998).

On October 29, 2024, a PCA (personal care attendant) reevaluation was submitted by [REDACTED] for 13.5 Day/Evening PCA hours. The prior authorization request was modified to 11 PCA hours. PCA time requested for transfers to and from the school bus and assistance with eating was denied. The PCA evaluation shows that Appellant is independent with mobility transfers and does not use any devices or medical equipment for mobility or transfers (Exhibit 4, p. 11). The record also reflects that Appellant has poor safety awareness, bolts, and is easily distracted. Appellant is also able to feed himself but requires supervision. PCA time requested for both ADLs falls under cueing, prompting, supervising, and guiding Appellant to complete each ADL, which is not covered by the PCA program as outlined above. Further, Appellant’s representative agreed that transferring to and from the school bus falls under the responsibility of a parent. Accordingly, the appeal is DENIED.

## **Order for MassHealth**

None.

## **Notification of Your Right to Appeal to Court**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court, within 30 days of your receipt of this decision.

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Thomas J. Goode  
Hearing Officer  
Board of Hearings

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