

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



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| Appeal Decision: | Denied | Appeal Number: | 2417587 |
| Decision Date: | 01/31/2025 | Hearing Date: | 12/19/2024 |
| Hearing Officer: | Scott Bernard | | |

Appearance for Appellant:



Appearance for MassHealth:

Donna Burns, RN (Optum) *via* telephone



*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

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|---------------------------|---------------------|--------------------------|---|
| Appeal Decision: | Denied | Issue: | Prior Authorization – Personal Care Attendant |
| Decision Date: | 01/31/2025 | Hearing Date: | 12/19/2024 |
| MassHealth's Rep.: | Donna Burns, RN | Appellant's Rep.: | <i>Pro se</i> |
| Hearing Location: | Quincy Harbor South | Aid Pending: | No |

Authority

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

Jurisdiction

Through a notice dated September 24, 2024, MassHealth denied the appellant's PA request for PCA services because the appellant's clinical record indicated that he did not require physical assistance with two or more activities of daily living: mobility (including transfers); medications; bathing or grooming; dressing or undressing; passive range of motion exercises; eating; or toileting. (See 130 CMR 422.403(C)(3); Exhibit (Ex.) 1; Ex. 5, pp. 3-5). The appellant filed this appeal in a timely manner on November 15, 2024. (See 130 CMR 610.015(B); Ex. 2). Denial of a PA request for PCA services is valid grounds for appeal. (See 130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied the appellant prior authorization request for PCA services.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 422.403(C)(3), in determining that the appellant's prior authorization request for PCA services should be denied.

Summary of Evidence

MassHealth was represented by a registered nurse/clinical appeals reviewer, and the appellant spoke on his own behalf. All participants in the hearing attended by telephone.

MassHealth's representative testified to the following. According to documentation, the appellant is under the age of 65 with a primary diagnosis of legal blindness (Testimony; Ex. 5, pp. 5-6). On September 5, 2024, the Northeast Independent Living Program (the PCM agency) submitted a prior authorization reevaluation request for 13 hours and 15 minutes per week of PCA services (Testimony; Ex. 5). The PCM agency requested assistance with the following activities of daily living:

- 20 minutes per day for bathing. (Ex. 5, p. 13). The PCM agency explained that the appellant required "MIN Assist in/out of shower, washing/rinsing/drying hair, back, lower body, and feet due to blindness". (Ex. 5, p. 14).
- 10 minutes per week for nail care; 10 minutes, five times per week for shaving; and five minutes per day for application of lotion. (Ex. 5, p. 15). The PCM agency explained that the appellant had "TOTAL DEP; with toenail care, shaving, lotion to back/lower body/feet d/t impaired vision and lack of motivation r/t blindness d/t brain tumor 2011 and depression" (Id.); and
- Seven minutes per day (each) for dressing and undressing. (Ex. 5, p. 17). The PCM agency explained that the appellant required "MOD assist; assist with dressing/undressing upper/lower body and don/doff shoes, pulling up/down underwear, pants, overhead shirts, assist locating zipper, buttons, snaps, socks, shoes d/t impaired vision and lack of motivation r/t blindness d/t brain tumor 2011 and depression" (Id.).

The PCM agency also requested the following times for instrumental activities of daily living (IADLs):

- 39 minutes per day (total) for meal preparation (seven minutes for breakfast, 12 for lunch, and 20 for dinner);
- 60 minutes per week (each) for laundry, housekeeping, and shopping. (Ex. 5, pp. 27-29).

In a notice dated September 24, 2024, MassHealth denied the PA request because the clinical record indicated that the appellant did not require physical assistance with two or more ADLs, which is a requirement to receive PCA services under the rules. (Testimony; Ex. 1; Ex. 5, pp. 3-4). The appellant's last authorization for PCA services ended on November 13, 2024. (Testimony).

According to the documentation, the appellant lives in a rooming house and has a diagnosis of blindness. (Testimony). There is no clinical documentation in the record to support that the

appellant does not have the functional ability to physically perform bathing, grooming, dressing, and undressing. (Testimony). The records show that the appellant is able to ambulate and move his limbs without difficulty. (Testimony).

In response to questions from the MassHealth representative, the appellant stated that he has been blind for approximately [REDACTED], a condition caused by a [REDACTED] r that progressively led to his vision loss. (Testimony; Ex. 5, p. 6). The appellant confirmed that, at the onset of his blindness, he did receive some assistance from the Massachusetts Commission for the Blind (MCB), which included orientation services and a white cane. (Testimony). The appellant stated that he has not found the services from MCB to be particularly helpful and has not had much contact with them since he first became blind. (Testimony).

The appellant explained that while he could manage tasks such as showering and dressing independently, he requires help with other daily tasks due to his blindness. (Testimony). For example, he needed assistance with organizing clothes, especially since he could not distinguish colors, and with tasks like laundry, housekeeping, and navigating between different floors of the rooming house. (Testimony). He emphasized that his need for PCA services was not about living independently, but about managing certain tasks in his living environment that he could not do alone. (Testimony).

The MassHealth representative asked the appellant about his ability to perform ADLs like bathing, dressing, and grooming. (Testimony). The appellant clarified that he did not need help with bathing or dressing, but did need assistance with other activities that were not considered basic personal care, like organizing clothes and handling household chores such as laundry. (Testimony).

The appellant was dissatisfied with the interaction he had with the person the PCM agency sent to perform his assessment for PCA services. (Testimony). He explained that when he requested an adjustment to his PCA hours to reflect his needs more accurately, the PCM agency representative seemed offended by his request and was very dismissive. (Testimony). After this conversation, he felt that his PCA hours were reduced, despite receiving help for years without issue. (Testimony). He felt that the PCM agency representative did not fully understand his needs, leading to the reduction in services. (Testimony).

The MassHealth representative explained that PCA services are typically provided for basic personal care tasks like bathing, dressing, and grooming, which are ADLs. (Testimony). Help with chores like laundry or housekeeping, which are instrumental activities of daily living (IADLs), could only be approved if the appellant demonstrated a need for assistance with at least two ADLs. (Testimony). The appellant asked if he needed to show a greater need for PCA services in order to qualify for help with tasks like laundry and received confirmation that he would need to demonstrate a need for assistance with two or more ADLs before MassHealth would approve assistance for IADLs like laundry. (Testimony).

The appellant stated that his ex-wife had been helping him with personal care tasks, including

dressing and bathroom assistance, and that he was comfortable with this arrangement. (Testimony). The MassHealth representative suggested that the appellant perhaps contact other PCM agencies listed on the MassHealth website for a more thorough assessment if he felt his needs were not being accurately evaluated by his current PCM agency. (Testimony). The appellant also mentioned having tried using electric razors but having difficulty managing them. (Testimony). The appellant preferred having someone help with tasks like shaving. (Testimony). Additionally, he explained that navigating stairs between the kitchen and bathroom, which were located on different floors, made tasks like laundry even more challenging. (Testimony).

Findings of Fact

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

1. The appellant is under the age of 65 years old with a primary diagnosis of legal blindness. (Testimony; Ex. 5, pp. 5-6).
2. The appellant is legally blind due to a [REDACTED] and has had this condition for [REDACTED] years. (Testimony).
3. On September 5, 2024, the PCM agency submitted a prior authorization reevaluation request for 13 hours and 15 minutes per week of PCA services. (Testimony; Ex. 5).
 - A. The PCM agency requested time for assistance with the following ADLs: 20 minutes per day for bathing assistance, 10 minutes per week for nail care, 50 minutes per week for shaving, 5 minutes per day for lotion application, and 7 minutes per day for dressing and undressing, all due to his blindness and associated lack of motivation caused by his condition and depression. (Ex. 5, pp. 13-14, 15, 17).
 - B. The PCM agency also requested time for assistance with IADLs: 39 minutes per day (total) for meal preparation, and 60 minutes per week for laundry, 60 minutes per week for housekeeping, and 60 minutes per week for shopping. (Ex. 5, pp. 27-29).
4. In a notice dated September 24, 2024, MassHealth denied the PA request because the clinical record indicated that the appellant did not require physical assistance with two or more ADLs, which is a requirement to receive PCA services under the regulations. (Testimony; Ex. 1; Ex. 5, pp. 3-4).
5. The documentation indicates that the appellant is functionally able to ambulate and move all his extremities. (Testimony).
6. The appellant did not dispute that he can perform basic ADLs like bathing, dressing, and some grooming independently, but may need assistance with shaving. (Testimony).

7. The appellant's last authorization for PCA services ended on November 13, 2024. (Testimony).

Analysis and Conclusions of Law

MassHealth covers PCA services provided to eligible MassHealth members who can be appropriately cared for in the home when the PCA services are authorized for the member in accordance with the PCA program prior authorization regulations; the member's disability is permanent or chronic in nature and impairs the member's functional ability to perform activities of daily living (ADLs) and instrumental activities of daily living (IADLs) without physical assistance; the PCM agency has determined that the member requires physical assistance with two or more of the ADLs; and MassHealth has determined that the PCA services are medically necessary. (130 CMR 422.403(C)).

ADLs are those specific activities described below that are performed by a PCA to physically assist a member with mobility, taking medications, bathing or grooming, dressing, passive range of motion exercises, eating, and toileting. (130 CMR 422.402). ADLs encompass the following categories of activities, with any number of activities within a single category being 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. (130 CMR 422.410(A)).

Based on the information provided by the PCM agency and the appellant's testimony, the record does not support a finding that the appellant is currently eligible for services under the PCA program. Eligibility for PCA services requires assistance with at least two activities of daily living (ADLs). Although the PCM agency's submission requested assistance with two ADLs—bathing/grooming, and dressing/undressing—there was no evidence provided to show that the appellant is physically unable to perform these tasks independently.

The appellant's testimony confirmed that he is fully capable of dressing and bathing on his own, without assistance from another person. While the appellant credibly stated that he requires some help with shaving due to his blindness, this accounts for only one ADL. The appellant also mentioned needing assistance with choosing and organizing clothing; however, these tasks do not involve direct physical assistance with dressing and undressing.

Additionally, the appellant stated he may need help with mobility between floors in his rooming house. However, since the stairs are located outside his living space, assistance with navigating them is not considered a covered activity under the PCA program.

As such, the record does not meet the criteria for PCA program eligibility at this time.

For the above stated reasons, 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.

Scott Bernard
Hearing Officer
Board of Hearings

Cc:

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