

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2417849
Decision Date:	1/6/2025	Hearing Date:	12/23/2024
Hearing Officer:	David Jacobs		

Appearances for Appellant:



Appearances for MassHealth:

Donna Burns, RN



Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
Board of Hearings
100 Hancock Street
Quincy, MA 02171

APPEAL DECISION

Appeal Decision:	Denied	Issue:	Prior Authorization (PCA Services)
Decision Date:	1/6/2025	Hearing Date:	12/23/2024
MassHealth Rep:	Donna Burns, RN	Appellant Rep:	Appellant's Mother
Hearing Location:	Board of Hearings (Remote)	Aid Pending:	No

Authority

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

Jurisdiction

Through notice dated November 19, 2024, MassHealth denied the appellant's request for an increase in his PCA hours (130 CMR 450.303) (Exhibit 1). The appellant filed a timely appeal on November 20, 2024. (Exhibit 2 and 130 CMR 610.015(B)). A denial of a request for increased PCA services is a valid basis for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied the appellant's request for increased PCA services.

Issue

The appeal issue is whether the appellant has demonstrated the medical necessity of the services that were requested.

Summary of Evidence

MassHealth was represented at the hearing by a registered nurse who testified telephonically to the following factual background: The appellant is a male under the age of 21 whose provider, [REDACTED] submitted an initial request for PCA services on his behalf. MassHealth subsequently authorized PCA services in the amount of 6 hours and 15 minutes per week. The record reflects that the appellant has a primary diagnosis of autism (Exhibit 4, pg. 15). On November 7, 2024, [REDACTED] submitted a request for an additional 2 nighttime PCA hours in addition to 6 hours and 15 minutes that had previously been requested and approved by MassHealth (Exhibit 4, pg. 3). The time that was requested was for bathing and dressing between the hours of 12:00 am and 6:00 am (Exhibit 4, pg. 4). The time requested was for 10 minutes for bathing and 7 minutes for dressing each day (Exhibit 4, pgs. 4 and 25).¹ On November 19, 2024, MassHealth denied this time due to it not being medically necessary (Exhibit 1).

The appellant's mother appeared telephonically on his behalf. She testified that the appellant has school at 8:30 each morning and it can take two hours each morning to make the commute because the family picks up an additional child to take to school. She testified that it takes an hour for the appellant to get ready in the morning due to his autism, thus the appellant needs to wake up before 6:00 am to get ready and make the commute to school. She argued that despite [REDACTED] only requesting 10 minutes for a bath and 7 minutes for dressing, it can take significantly longer to accomplish both due to his disability.

MassHealth responded that while it's nice that the appellant's family is willing to pick up an additional child for school, MassHealth cannot grant additional PCA time to allow them to do so as it is not medically necessary. Even if it takes an hour to get to school, that leaves an hour and a half after 6:00 am to get ready and the request is only for 17 additional minutes. Moreover, if combined with other morning tasks the appellant has only requested a total of 20 minutes of tasks that are party of "getting ready" in the morning. Therefore, MassHealth does not see this additional request for time as medically necessary.

The appellant's mother responded that she does not know why [REDACTED] requested such little time. She testified that the family has been having difficulties communicating with [REDACTED] because she believes the nurse that performed the evaluation for the appellant may be intentionally limiting their request for hours.

Findings of Fact

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

1. The appellant is a male under 21 years of age with a primary diagnosis of autism.
2. On November 7, 2024, the appellant submitted a request for 2 additional nighttime hours

¹ The minimum time authorized for nighttime PCA hours is 2 hours per night.

for bathing and dressing between the hours of 12:00 am to 6:00 am. The request is for 10 minutes for bathing and 7 minutes for dressing.

3. On November 19, 2024, MassHealth denied the request for nighttime hours on the basis that PCA assistance at night is not medically necessary.
4. The appellant must be at school at 8:30 am and the commute to get there from the appellant's home takes 1 hour.
5. The appellant's family picks up an additional child to take to the appellant's school which can sometimes increase the commute to up to 2 hours.
6. The appellant contends that he needs at least one hour to get ready in the morning due to his autism.
7. The total amount of time for PCA services requested for "getting ready" in the morning activities is 20 minutes.
8. On November 19, 2024, the appellant received a notice informing him that his request for additional hours was denied as not medically necessary.
9. On November 20, 2024, the appellant appealed the notice.

Analysis and Conclusions of Law

Regulations concerning PCA Services are found at 130 CMR 422.000, *et seq.* PCA services are physical assistance with ADLs and 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 or a nurse practitioner who is responsible for the oversight of the member's health care; (2) the member's disability is permanent or chronic in nature and impairs the member's functional ability to perform ADLs and IADLs without physical assistance; (3) the member, as determined by the personal care agency, requires physical assistance with two or more of the ADLs as defined in 130 CMR 422.410(A); and (4) MassHealth has determined that the PCA services are medically necessary.

ADLs and IADLs are addressed in 130 CMR 422.410, which provides as follows:

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

- (1) mobility: physically assisting a member who has a mobility impairment that prevents unassisted transferring, walking, or use of prescribed durable medical equipment;
- (2) assistance with medications or other health-related needs: physically

assisting a member to take medications prescribed by a physician that otherwise would be self-administered;

(3) bathing or grooming: physically assisting a member with basic care such as bathing, personal hygiene, and grooming skills;

(4) dressing or undressing: physically assisting a member to dress or undress;

(5) passive range-of-motion exercises: physically assisting a member to perform range-of-motion exercises;

(6) eating: physically assisting a member to eat. This can include assistance with tube-feeding and special nutritional and dietary needs; and

(7) toileting: physically assisting a member with bowel and bladder needs.

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

(1) household services: physically assisting with household management tasks that are incidental to the care of the member, including laundry, shopping, and housekeeping;

(2) meal preparation and clean-up: physically assisting a member to prepare meals;

(3) transportation: accompanying the member to medical providers; and

(4) special needs: assisting the member with:

(a) the care and maintenance of wheelchairs and adaptive devices;

(b) completing the paperwork required for receiving personal care services; and

(c) other special needs approved by MassHealth as being instrumental to the health care of the member.

By regulation, MassHealth will not pay a provider for services that are not medically necessary. Pursuant to 130 CMR 450.204(A), a service is considered “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 or cause to aggravate a handicap, or result in illness or infirmity; and

(2) there is no other medical services 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]. . . .

Here, MassHealth has persuasively supported its position that it did not err for denying the appellant’s request for nighttime hours. The appellant’s family’s choice to add additional time to their morning commute to pick up an additional child to take the appellant’s school is laudable but is unrelated to medical necessity. But for this choice, the appellant’s bathing and dressing assistance needs could easily be completed during the daytime hours (after 6:00 am). Per the

appellant's mother's testimony, the appellant needs two hours in the morning to get to school - an hour to get ready (which exceeds the total time requested for PCA assistance in the morning), and an hour to get to school. There are 2 hours and 30 minutes between 6:00 am and the school start time of 8:30 am – more than enough time to accomplish these tasks. Therefore, pursuant to 130 CMR 450.204(A), the appellant has not demonstrated that the time request for PCA assistance at night is medically necessary.

During the hearing the appellant's mother made it clear that the requested time is not representative of the actual time the appellant requires for PCA services. If that is the case the appellant's family should contact Tempus and request a new evaluation and submit a new prior authorization request for PCA services that is more representative of the appellant's needs.

This 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.

David Jacobs
Hearing Officer
Board of Hearings

cc: Optum