

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved-in-part; Dismissed-in-part	Appeal Number:	2417984
Decision Date:	02/20/2025	Hearing Date:	01/03/2025
Hearing Officer:	Casey Groff	Record Closed:	01/06/2025

Appearance for Appellant:



Appearance for MassHealth:

Donna Burns, 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-in-part; Dismissed-in-part	Issue:	Personal Care Attendant (PCA) Services
Decision Date:	02/20/2025	Hearing Date:	01/03/2025
MassHealth's Rep.:	Donna Burns, R.N.	Appellant's Rep.:	Parent/Guardian
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 11/6/2024, MassHealth informed Appellant that it modified her prior authorization (PA) request for personal care attendant (PCA) services. *See* 130 CMR 450.204.(A)(1) and Exhibits 1 and 4. Appellant filed this appeal in a timely manner on 11/22/24, designating her mother as her appeal representative. *See* Exh. 2 and 130 CMR 610.015(B). Denial or reduction of a prior authorization request for services is a valid basis for appeal. *See* 130 CMR 610.032. After a hearing was conducted on 1/3/25, the record remained open through 1/6/25 for additional evidence.

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 evidence, the MassHealth RN representative presented the following information: Appellant is an adult female between the ages of 21 and 64. See Exh. 4 p. 2. Appellant is enrolled as a consumer in MassHealth's personal care attendant (PCA) program. On 9/11/24, a registered nurse from Appellant's personal care management (PCM) agency, The Arc of the South Shore, performed an in-home reevaluation of Appellant to assess her continued need for PCA services. *Id.* at 6-8. According to documentation submitted by the agency, Appellant has a primary diagnosis of myalgic encephalomyelitis/chronic fatigue syndrome (ME/CFS) characterized by a decreased activity levels, fatigue, sleep disturbances, memory and thinking difficulties, postural orthostatic tachycardia syndrome (POTS), immune deficiency, mast cell stimulation, joint pain, headaches, digestive issues, irritable bowel syndrome (IBS), and muscle weakness. *Id.* at 8. The evaluating PCM nurse noted that Appellant's overall function has declined over the past year; that she has become bedridden due to severe activity intolerance; and that she has poor endurance, unsteady gait, and mostly ambulates by wheelchair. *Id.* Based on the assessment, the PCM agency sent MassHealth a prior authorization (PA) request on Appellant's behalf, seeking 67 hours of PCA services per week for dates of service 12/1/2024 and ending 11/30/2025. *Id.* at 2.

On 11/6/24, MassHealth notified Appellant that it modified her PA request by authorizing 58 hours of PCA services per week. See Exh. 1. The reduction based on modifications made to the times requested for assistance with the following activities of daily living (ADLs): (1) mobility; (2) stair mobility; (3) passive range of motion (PROM) for upper extremities; (4) grooming/oral care; (5) medication assistance with immunotherapy; (6) and other healthcare needs. *Id.* at 2.

At hearing, the parties addressed each modification individually and were able to resolve and/or stipulate to all but one modification. The five modifications that were resolved, are summarized as follows:

1. Appellant, through her PCM agency, requested 5 minutes 4 times daily (5x4x7) for assistance with mobility, i.e., ambulating room to room. See Exh. 4, p. 12-13. MassHealth modified the requested time for each mobility episode to 2 minutes, thus approving 2x4x7. See Exh. 1. After discussion at hearing, Appellant's representative accepted the modification.
2. Appellant requested 5 minutes 2 times daily (5x2x7) for mobility assistance specifically to go up and down stairs. See Exh. 4, pp. 12-13. MassHealth denied the request at 0x0. See Exh. 1. Pursuant to discussion at hearing, MassHealth offered to increase the time to 3 minutes twice daily (3x2x7), which Appellant accepted.

3. Appellant requested 10 minutes 2 times daily for her PCA to provide PROM assistance for all four extremities ((10x2x7) x4). See Exh. 4, p. 14. MassHealth approved the time as requested for only the lower 2 extremities ((10x2x7) x2) but denied PROM assistance for the upper extremities at 0x0. At hearing, MassHealth offered to approve 10 minutes 1x per-day for the upper 2 extremities ((10x1x7) x2). Appellant agreed with the proposed adjustment thereby resolving this modification.
4. Appellant requested 3 minutes, 4 times daily for assistance with oral care (3x4x7) as a subcategory of grooming care. See Exh. 4, p. 17. MassHealth modified the request by approving 2 minutes, 3 times per day (2x3x7). See Exh. 1. At hearing, MassHealth agreed to approve 3x4x7 as requested, thereby resolving this modification.
5. Appellant requested 5 minutes daily (5x1x7) for assistance with “other healthcare needs.” See Exh. 4, 25-26. MassHealth denied this request to 0x0 due to documentation that indicated it was intended for the PCA to provide skin assessments, which was a skilled service. See Exh. 1. Pursuant to a discussion at hearing, MassHealth agreed to restore the time requested at 5x1x7, noting, however, that the authorized time was intended only for the PCA to apply cream/lotion on Appellant’s elbows, feet, and skin areas that were prone to breakdown, and not to render any skilled service.

The remaining modification concerned a subcategory of medication assistance involving the administration of subcutaneous injections.¹ See Exh. 4, p. 23-24. Through her PA request, Appellant sought 30 minutes per week (30x1x1) for her PCA to administer Hizentra SCIg 30gram, a prescribed immunoglobulin (Ig) therapy, administered subcutaneously via pump. *Id.* According to documentation submitted by the PCM agency, Appellant previously received immunotherapy through an intravenous (IV) infusion; however, she is now prescribed Hizentra which can be administered subcutaneously, i.e., under the skin, and at home. The PCM nurse noted that Appellant’s PCA was trained by the drug company, Kabafusion, to administer the treatment, which takes between 1-2 hours per session.

According to its notice dated 11/6/24, MassHealth denied this request (0x0) on the basis that it did not meet professionally recognized standards of healthcare. See Exh. 1. The MassHealth representative explained that this was due to the level of complexity involved in administering Hizentra. Under program regulations, MassHealth will pay for a PCA to help administer certain subcutaneous injections which can normally be self-administered and that do not involve skilled care. The MassHealth representative explained that the product website and instructional videos for Hizentra, which were reviewed in advance of this appeal, depict the administration

¹ Also under the “medication assistance” category, Appellant requested, and MassHealth approved, 10 minutes per week (10x1) for assistance prefilling her medication box, and 5 minutes 3 times daily (5x3x7) for physical assistance administering all other medications (medications not administered via subcutaneous injection, e.g., PO, PR, GTTS, inhalers and topical). *Id.*

process as a multi-step infusion treatment, which more closely resembles that of a skilled service. Though this particular Ig therapy is designed to be self-administered, individual must first receive preliminary training by a qualified health professional before treatment can begin and must be capable of doing so. Given the potential for complications, and in light of Appellant's memory issues, MassHealth asserted that she may lack the ability to appropriately direct her care while undergoing an infusion. Following the hearing, the MassHealth representative provided the following excerpt from the product's website:

Infuse Hizentra under your skin *only*; do not inject into a blood vessel. Self-administer Hizentra only after having been taught to do so by your doctor or other healthcare professional and having received dosing instructions for treating your condition.

Immediately report to your physician any of the following symptoms, which could be signs of serious adverse reactions to Hizentra:

- Reduced urination, sudden weight gain, or swelling in your legs (possible signs of a kidney problem).
- Pain and/or swelling or discoloration of an arm or leg, unexplained shortness of breath, chest pain or discomfort that worsens on deep breathing, unexplained rapid pulse, or numbness/weakness on one side of the body (possible signs of a blood clot).
- Bad headache with nausea; vomiting; stiff neck; fever; and sensitivity to light (possible signs of meningitis).
- Brown or red urine; rapid heart rate; yellowing of the skin or eyes; chest pains or breathing trouble; fever over 100°F (possible symptoms of other conditions that require prompt treatment).

See Exh. 5.

Appellant's representative testified that in 2020, after Appellant was transitioned from intravenous (IV) immunoglobulin infusions to Hizentra, a nurse from the drug company Kabafusion trained Appellant's PCA to administer the treatment over the course of multiple in-home visits; first by observing and then by performing the infusion treatment under the nurse's supervision. Appellant's representative submitted into evidence a written statement from Appellant detailing the infusion process, as well as the Kabafusion nursing notes that documented the trainings, including the notes from the nurse's final session on 6/4/2020 which states that Appellant and her caregiver completed therapy with good technique and verbalized comfort continuing therapy independently. See Exh. 7, pp. 19-24.

Appellant's representative testified that Appellant's PCA has been the sole person administering the weekly infusions over the past 5 years. During this time, there have been no issues and Appellant has not experienced any complications. Appellant's representative testified that although the immunotherapy is designed to be self-administered, Appellant

cannot do it herself due to her physical incapacity, and there are no other resources available that provide the service. They were told that it would not be covered as a nursing visit by the home health agency.

Appellant also asserted through her written statement that she and her PCA completed all necessary education and training by a registered nurse from the drug company. Appellant explained the various steps involved in the preparing and administering the immunotherapy, which, in summary, include drawing the gamma globulin from the vials into 3 syringes; priming lines on a tubing set, connecting the tubing set to one of the 3 filled syringes, inserting it into a pressurized pump; and, changing each syringe with the next one every 35 minutes. *Id.* at 7. To prep the area, needles are inserted into each thigh, which are then removed at the completion of the session. Appellant noted that the PCA also handles other related administrative tasks, including weekly calls with the drug company to review supplies, completing and sending required forms to the company, and ensuring infusion supplies that are shipped weekly and are checked for completeness. *Id.* Appellant wrote in her statement that Kabafusion does not have nurse staffing to administer the drug nor is it covered through Partners home care benefit.

Findings of Fact

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

1. Appellant is an adult female between the ages of 21 and 64.
2. Appellant has a primary diagnosis of ME/CFS, characterized by a decreased activity level, fatigue, sleep disturbances, memory and thinking difficulties, POTS, immune deficiency, mast cell stimulation, joint pain, headaches, digestive issues, IBS, and muscle weakness.
3. Appellant's overall function has declined over the past year; that she has become bedridden due to severe activity intolerance; and that she has poor endurance, unsteady gait, and mostly ambulates by wheelchair.
4. Pursuant to a PCA re-evaluation conducted by Appellant's PCM agency, Appellant, through her PCM agency sought prior authorization for 67 hours of PCA services per week for dates of service 12/1/2024 and ending 11/30/2025.
5. On 11/6/24, MassHealth modified Appellant's PA request by authorizing 58 hours of PCA services per week, which was based on reductions to the times requested for assistance with: (1) mobility; (2) stair mobility; (3) PROM for the upper extremities; (4) grooming/oral care; (5) medication assistance with immunotherapy; (6) and other healthcare needs.

6. At hearing, the parties resolved 5 of the 6 modifications, as follows:
 - a. Appellant accepted MassHealth's modification to mobility which authorized 2x4x7 for the applicable PA period (as opposed to 5x4x7 as requested by Appellant).
 - b. At the hearing, MassHealth offered to increase the authorized time for assistance with stair mobility to 3x2x7, which Appellant accepted.
 - c. MassHealth offered to approve time for PROM for the upper extremities (initially denied) to 10 minutes 1x per-day for each upper extremity ((10x1x7) x2), which Appellant accepted.
 - d. MassHealth agreed to approve 3x4x7 as requested for grooming/oral care.
 - e. MassHealth agreed to restore the time requested for other healthcare needs at 5x1x7 but intended only for the PCA to apply cream/lotion on Appellant's elbows, feet, and skin areas that were prone to breakdown, and not to render any skilled service.
7. Appellant sought 30 minutes per week (30x1x1) for her PCA to administer Hizentra SCIg 30gram, a subcutaneously administered prescribed Ig therapy.
8. MassHealth denied the request on the basis that it did not meet professionally recognized standards of healthcare and that, due to the level of complexity involved, exceeded the scope of services payable under the PCA program
9. Pursuant to its prescribing instructions, Hizentra is to be administered via subcutaneous infusion, and may be self-administered after being trained by a doctor or other healthcare professional and having received applicable dosing instructions.
10. In 2020, after Appellant was transitioned from IV infusions to Hizentra, a nurse from the drug company Kabafusion trained Appellant's PCA to administer the treatment over the course of multiple in-home visits; first by observing and then by performing the infusion treatment under the nurse's supervision.
11. Since receiving this training, Appellant's PCA has administered the weekly immunotherapy treatments to Appellant without issue.
12. Appellant is unable to self-administer the immunotherapy due to physical limitations resulting from her medical condition and she does not have another available caregiver or medical service that is currently available and/or able to help her administer this medication.

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:² 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 prerequisites to qualify for PCA services. This appeal addresses whether MassHealth allotted sufficient time in accordance with program regulations for Appellant to receive medically necessary physical assistance to perform her activities of daily living (ADLs), specifically, assistance administering medications.

Under the PCA program, MassHealth will reimburse for the “activity time performed by a PCA in providing assistance with the ADL.” 130 CMR 422.411. These ADLs are described as follows:

- (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***

² 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.

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.

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

Based on the evidence presented at hearing, Appellant successfully demonstrated that 30 minutes per week of PCA assistance, to administer her prescribed immunoglobulin (Ig) treatment subcutaneously, is medically necessary and within the scope of covered PCA services. MassHealth denied this request on the basis that it involves a skilled level of care and exceeds the scope of services that are payable under the PCA program. To determine whether a particular medication may be administered by a PCA as a covered PCA service, the operative question, as posed by the regulatory language above, is whether the medication is one that could otherwise be self-administered by the consumer. See 130 CMR 422.410(A). Prescription information entered into evidence indicates that Hizentra may be self-administered so long as the individual has received appropriate dosage instructions and training by a healthcare professional. See Exh. 5. While administering Hizentra is undoubtedly a longer and more involved process than required for other types of common self-injected medications, there is no evidence to indicate that Hizentra must be administered by a skilled healthcare provider, such as a registered or licensed practical nurse, to be safe and effective.³ See *e.g.*, 130 CMR 403.415(B) (nursing services may be deemed necessary based on medical complexity alone, or in situations

³ While the PCA regulations do not further address the issue of what is contemplated under medication administration assistance and skilled versus unskilled services, MassHealth regulations governing home health services are instructive. Under 130 CMR 403.415(B), MassHealth considers skilled nursing visits as medically necessary based, in relevant part, on the following criteria:

- (1) A nursing service is a service that must be provided by a registered nurse, or by a licensed practical nurse under the supervision of a registered nurse, to be safe and effective, considering the inherent complexity of the service, the condition of the member, and accepted standards of medical and nursing practice.
- (2) Some services are nursing services on the basis of complexity alone (for example, intravenous and intramuscular injections, or insertion of catheters). However, in some cases, a service that is ordinarily considered unskilled may be considered a nursing service because of the patient's condition. This situation occurs when only a registered nurse or licensed practical nurse can safely and effectively provide the service.
- (3) When a service can be safely and effectively performed (or self-administered) by the average nonmedical person without the direct supervision of a registered or licensed practical nurse, the service is not considered a nursing service, unless there is no one trained, able, and willing to provide it.

where an otherwise unskilled service can only be safely and effectively provided by a RN/LPN). Here, the evidence shows that Hizentra is designed to be administered by the average nonmedical person, such as a patient or caregiver. *Id.* A principal component of the PCA program is to ensure that PCA's are "willing to receive training and supervision in all PCA services," and are "able to understand and carry out directions" given by the member or surrogate. See 130 CMR 422.420. Here, Appellant provided documentation indicating that her PCA underwent multiple in-home training sessions by a registered nurse from the drug company. See Exh. 7. The evidence shows that in the nearly five years since the training took place, Appellant's PCA has successfully administered the subcutaneous treatment to Appellant without issue. Given that Appellant would be capable of self-administering her Ig treatment absent her disabling condition, she should be able to receive this treatment by her trained PCA as a covered PCA service. See 130 CMR 450.204(A); *see also* 130 CMR 422.410(A)(2).

The appeal is APPROVED-in-part with respect to medication administration assistance.

The appeal is DISMISSED-in-part with respect to the modifications that the parties resolved at hearing, as follows:

- Mobility: At hearing, Appellant accepted MassHealth's modification to mobility at 2x4x7.
- Stair mobility: Pursuant to discussion at hearing, MassHealth increased the time authorized for stair mobility to 3 minutes twice daily (3x2x7) for stair mobility, which Appellant accepted.
- PROM upper extremities: At hearing, MassHealth offered to increase the time for PROM of the upper left and right extremity to 10 minutes once per-day, each ((10x1x7) x2), which Appellant accepted.
- Grooming/oral care: MassHealth agreed approve Appellant's request for oral care assistance at 3x4x7.
- Other healthcare needs: MassHealth agreed to approve Appellant's request for assistance applying cream/lotion to skin areas prone to breakdown at: 5x1x7.

Order for MassHealth

Adjust Appellant's prior authorization for PCA services for dates of service 12/1/24 through 11/30/25 to reflect the following:

1. Medication assistance: Approve 30x1x1 for assistance administering subcutaneous injection (immunotherapy). Note that this is addition to other 2 medication assistance tasks already approved.
2. Stair mobility: Approve 3x2x7 as agreed-upon at hearing.
3. PROM: Approve 10x1x7 for *each* upper extremity. Note that this is in addition to the 10x2x7 already approved for each *lower* extremity.
4. Grooming/oral care: Approve 3x4x7 as requested.
5. Other healthcare needs: Approve 5x1x7 for other healthcare needs, i.e., lotion application to prevent skin breakdown.

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 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

cc:

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