

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2418349
<b>Decision Date:</b>	2/27/2025	<b>Hearing Date:</b>	February 18, 2025
<b>Hearing Officer:</b>	Brook Padgett		

**Appellant Representative:**

Pro se

**MassHealth Representative:**

Kelly Rayen, R.N.



***Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
MassHealth of Medical Assistance  
Board of Hearings  
100 Hancock Street, 6<sup>th</sup> floor  
Quincy, MA 02171***

## APPEAL DECISION

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Personal Care Attendant (PCA) Services 130 CMR 422.410
<b>Decision Date:</b>	2/27/2025	<b>Hearing Date:</b>	February 18, 2025 <sup>1</sup>
<b>MassHealth Rep.:</b>	K. Rayen, R.N.	<b>Appellant Rep.:</b>	Pro se
<b>Hearing Location:</b>	Springfield		

### Authority

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

### Jurisdiction

The appellant received a notice dated November 22, 2024 stating: "Your request for prior authorization for personal care attendant (PCA) services has been modified." (Exhibit 1). The appellant filed this appeal timely on December 02, 2024. (130 CMR 610.015(B); Exhibit 2). Denial of prior approval is valid grounds for appeal. (130 CMR 610.032).

### Action Taken by MassHealth

MassHealth modified the appellant's request for PCA services.

### Issue

Was the appellant's request for 25.15 hours of PCA services properly modified to 20.15 hours as the times did not meet the requirements set forth in the medical necessity regulation?

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<sup>1</sup> This appeal was originally scheduled on January 05, 2025 at 09:00 am; however the appellant failed to answer his phone and the appeal was rescheduled to February 18, 2025.

## Summary of Evidence

MassHealth testified a PCA re-evaluation was performed by a registered nurse and submitted by the appellant's provider agency Ad Lib on November 20, 2024. The provider indicated that the [REDACTED] appellant has diagnoses of Osteoarthritis (OA), Degenerative Disc Disease (DJD), Rheumatoid Arthritis (RA), lymphedema (leg swelling), total right hip replacement, right foot deformity, PTSD, and deep vein thrombosis (DVT). The appellant had surgery on his right ankle last year and is awaiting surgery on his right knee. The appellant's mobility has declined and he has pain in both knees and legs. MassHealth stated the provider's time requested for assistance with the appellant's activities of daily living (ADL's) was approved in full with the exception of time requested for assistance with meal preparation, laundry, shopping, and transfers to medical appointments.

The appellant testified that he has had both his hips replaced, he needs two knee replacements, and his shoulders are so painful he often cannot raise his arms. The appellant stated he is in constant pain and is required to walk with crutches which makes it is very difficult to get around. The appellant maintained he cannot stand for more than 5 minutes at a time.

After discussion the appellant agreed to all of the MassHealth modifications except for meal preparation. The appellant disagreed with the transportation time allotted for trips to and from his medical appointments as he lives in [REDACTED] and several of his appointment are in [REDACTED] which can take 5 hours round trip. The appellant was informed that MassHealth did not modify the requested times for medical transportation and that he needs to contact his provider for an adjustment if he requires more time.

Regarding the time requested for meal preparation, MassHealth testified the appellant's provider requested 80 minutes a day, 7 days a week,<sup>2</sup> which MassHealth modified to 60 minutes a day, 7 days a week. MassHealth stated the appellant requires assistance with meal preparation as he is unable to stand for longer than 5 minutes and has decreased balance and coordination. The evidence in the record indicates the appellant is required to wear DARCO<sup>3</sup> boot at all times and is awaiting knee surgery. The medical record further states the appellant is independent with eating, toileting, grooming, including shaving, oral care, nail care, and washing of hair, requiring no assistance, although he does require a moderate assist dressing and undressing along with mobility transfers. MassHealth argues the appellant was approved for 55 minutes in his last evaluation and this request was increased to 60 minutes. This determination was based on the appellant's ability to independently perform other activities of daily living and therefore he can assist with his meal preparation and 80 minutes is more than ordinarily required for someone in his condition. MassHealth concluded that if the appellant has any further surgeries he should

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<sup>2</sup> 10 minutes for breakfast, 20 minutes for lunch, 45 minutes for dinnery, and 5 minutes for a snack.

<sup>3</sup> DARCO All-Purpose Boot is a protective medical boot for post-operative healing, wound care, and pressure relief; it is designed to accommodate casts, bandages, and bulky dressings.

contact his provider for an adjustment. (Exhibit 4).

The appellant responded that his PCA needs more time to prepare his meals. The appellant testified he has a breakfast of eggs and sausage, lunch will be a grinder or pizza and dinner that night was going to be lasagna. The appellant reiterated that as he is in a lot of pain and is taking a lot of medication as he has had two hip replacements and need two knee replacements. The appellant indicated he had submitted X-rays of his knees and his doctor's notes concerning his bi-lateral shoulder pain.

While the appellant X-rays and doctor's notes concerning his knees and bi-lateral shoulder pain were not immediately available at the hearing, they were later discovered in the record and forwarded to MassHealth for review. (See Exhibit 1).

MassHealth responded the medical records provided by the appellant establish he has ongoing chronic conditions of which MassHealth does not dispute.<sup>4</sup> However the submission provided no documentation of restricted activity or inability to participate in meal preparation and the appellant wasn't unable to provide testimony as to why he is unable to participate in meal preparation while seated. The documentation and testimony during the appeal indicates the appellant is independent with toileting, all grooming and medication management. The appellant's ability to perform these activities demonstrates his ability to utilize upper extremities and fine motor skills. (Exhibit 5).

## Findings of Fact

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

1. The appellant is [REDACTED] and has primary diagnoses of OA, DJD, RA, lymphedema, total left and right hip replacement, right foot deformity, PTSD, and DVT. (Exhibit 4 and testimony).
2. The appellant has had both hips replaced, surgery on right ankle completed last year, and is awaiting surgery on his right and left knee. (Exhibit 4 and testimony).
3. The appellant's mobility has declined, and he has had an increase in pain in both knees, legs, and shoulders. (Exhibit 4 and testimony).

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<sup>4</sup> PCP office visit dated September 26, 2024, supports the appellant's chronic issues of osteoarthritis to his knees. The orthopedic office visit dated March 01, 2023, supports the appellant's chronic shoulder pain with an onset of over 10 years ago when he tore both shoulders in the 1990s while working out. The appellant described his pain as intermittent at the time of the evaluation, but it can be moderate to severe when reaching. The orthopedist documented "he works out weekly and he think that it might be contributing to his pain." The orthopedic office visit dated September 18, 2024 outlines the appellant's chronic orthopedic issues, first hip replacement on December 03, 2009, with complications and a few surgeries thereafter. The assessment and plan was to re-evaluate him in 3 months.

4. The appellant disputes MassHealth's modification of the time requested for assistance with meal preparation. (Exhibit 4 and testimony).
5. The appellant's provider requested 80 minutes a day, 7 days a week for meal preparation. (Exhibit 4 and testimony).
6. MassHealth approved 60 minutes a day, 7 days a week for meal preparation. (Exhibit 4 and testimony).
7. The appellant is independent with eating, toileting, grooming (including shaving, oral care, nail care), and washing of hair. (Exhibit 4 and testimony).
8. The appellant requires a moderate assist dressing and undressing along with mobility transfers. (Exhibit 4).

## Analysis and Conclusions of Law

MassHealth will pay for PCA services provided to MassHealth members who can be appropriately cared for in the home (130 CMR 422.401 et seq.). The member must require physical assistance. The personal care agency determines the extent of the personal care services provided by a paid PCA (130 CMR 422.403). Personal care services consist of physical assistance with activities of daily living (ADL'S) (130 CMR 422.410(A)).

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

#### (A) Activities of Daily Living. 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. 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 the MassHealth as being instrumental to the health care of the member.
- (C) In determining the number of hours of physical assistance that a member requires under 130 CMR 422.410(B) for IADLs, the personal care agency must assume the following.
- (1) When a member is living with family members, the family members 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 personal care 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 will consider individual circumstances when determining the number of hours of physical assistance that a member requires for IADLs.

The requested PCA services must be medically necessary for prior authorization to be approved. MassHealth will not pay a provider for services that are not medically necessary and may impose sanctions on a provider for providing or prescribing a service or for admitting a member to an inpatient facility where such service or admission is not medically necessary.

130 CMR 450.204: Medical Necessity

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

- (1) it is reasonably calculated to prevent, diagnose, prevent 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. Services that are less costly to the MassHealth include, but are not limited to, health care reasonably known by the provider or identified by the MassHealth 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

The appellant agreed to all MassHealth's modifications except its modification of the time requested for assistance with meal preparation.

To determine the time required for PCA assistance MassHealth uses the PCA program Time for Task Guidelines (Guidelines), which provides average time estimates for an individual in the PCA program. Per the Guidelines, members who are totally dependent for this task can be authorized to receive assistance up to a total of 100 minutes (20 minutes assistance with the preparation of breakfast, 30 minutes for lunch, 45 minutes for dinner and 5 minutes for snack per day). Per the Guidelines, an individual who needs maximum assistance requires up to 75% physical assistance to complete task. This time is to physically assist a member to prepare meals, clean-up as well as set-up. When determining these times MassHealth considers the member's functional ability, severity of symptoms, member's level of participation, level of physical assistance needed, special dietary needs (such as chopped or pureed food, renal diet, etc.) along with the availability of family members in the member's household. (See 130 CMR 422.410).

The appellant testified that he has had both his hips replaced and he needs two knee replacements. He stated that his shoulders are so painful he often cannot raise his arms, that he is in constant pain, that he needs to use crutches to walk, and that he cannot stand for more than 5 minutes at a time. Despite these limitations, the appellant has no special dietary needs and is independent with the majority of his ADLs. It therefore follows that he can provide some assistance with the preparation of his own meals and would not need the maximum amount of assistance set forth in the guidelines (75 minutes). Because he is independent with many of his ADLs, MassHealth reasonably concluded that 60 minutes of assistance per day for assistance with meal preparation should be sufficient. Although the appellant requested 80 minutes of assistance, there is a lack of medical evidence in the record to demonstrate that the appellant requires more than the approved 60 minutes for assistance meal preparation. The appellant has not demonstrated that additional time is medically necessary.

The appellant's request for 80 minutes for assistance with meal preparation is DENIED.

## **Order for the 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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Brook Padgett  
Hearing Officer  
Board of Hearings

cc: MassHealth representative: OPTUM