

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Approved in part; Denied in part; Dismissed in part	Appeal Number:	2418672
Decision Date:	02/07/2025	Hearing Date:	01/17/2025
Hearing Officer:	Amy B. Kullar, Esq.		

Appearances for Appellant:



Appearance for MassHealth:

Kelly Rayen, 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; Denied in part; Dismissed in part	Issue:	Prior Authorization; Personal Care Attendant Services
Decision Date:	02/07/2025	Hearing Date:	01/17/2025
MassHealth's Rep.:	Kelly Rayen, R.N.	Appellant's Reps.:	
Hearing Location:	Quincy Harbor South 1 (Telephone)	Aid Pending:	Yes

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 November 27, 2024, MassHealth modified the appellant's prior authorization request for personal care attendant services. *See* 130 CMR 450.024(A), 130 CMR 422.410(A)(7), 130 CMR 422.410(B)(1) and Exhibit 1. The appellant filed this appeal in a timely manner on December 2, 2024. *See* 130 CMR 610.015(B) and Exhibit 2. MassHealth's decision to restrict or modify a member's assistance is valid grounds for appeal. *See* 130 CMR 610.032.

Action Taken by MassHealth

MassHealth modified the appellant's prior authorization request for personal care attendant (PCA) services.

Issue

The appeal issue is whether MassHealth was acting within its discretion in modifying the appellant's prior authorization request for PCA services.

Summary of Evidence

The MassHealth representative appeared via telephone and identified herself as a registered nurse and clinical appeals reviewer. The appellant is an adult MassHealth member who is enrolled in the MassHealth Moving Forward Plan (MFP) – Community Living waiver program. She is under the age of 65 and was represented at hearing by her mother, who is also her legal guardian, her private case manager, a supervisor from MassAbility, and her case manager at the MFP waiver program. The parties' testimony and record evidence are summarized as follows:

The appellant's medical history includes diagnoses of a history of [REDACTED]

[REDACTED] The appellant's injuries are due to her being the victim of a violent crime. Testimony and Exhibit 5 at 60. The appellant lives alone in a home that was adapted to her needs and receives home health aide services and skilled nursing visits in addition to PCA services. Testimony; *see also* Exhibit 5 at 47-61. The home health aide is scheduled for night (8:00 P.M. – 6:00 A.M.) and the PCA is scheduled for daytime shifts (6:00 A.M. – 6:00 P.M.).¹ Exhibit 6. The appellant is non-verbal and her communication abilities are characterized as "limited." Testimony and Exhibit 5 at 7. The appellant is categorized as having "total dependence" upon her PCA to accomplish the requested activities of daily living (ADLs) and the instrumental activities of daily living (IADLs). Exhibit 5 at 11.

The appellant was reevaluated for PCA services on September 12, 2024, and on November 20, 2024, her PCM agency, Tempus Unlimited, Inc., requested 80 hours and thirty minutes per week for the service period of 12/10/2024-12/9/2025. MassHealth modified this request on November 27, 2024, to 44 hours and 45 minutes per week for the service period of 12/10/2024-12/9/2025. Testimony, Exhibit 4. MassHealth made fifteen (15) modifications related to PCA assistance with mobility, transfers, repositioning, bathing, special bathing transfers, grooming - oral care, grooming - other, dressing, eating (2), bladder care, special toileting transfers, medication assistance, laundry, and housekeeping.

After testimony and additional information were disclosed at hearing, MassHealth and the appellant's representatives came to an agreement on the following category: medication

¹ The MassHealth representative referred to the PCA and home health aide schedule submitted pre-hearing by the supervisor from MassAbility. *See* Exhibit 6. It states that the appellant currently receives 69 hours of PCA services and 74 hours of HHA waiver hours and contains a chart which shows the hourly breakdown between day and night hours of service. The left column indicates that the appellant receives services 6am-6pm daily HHA hours, and the right column shows that the appellant receives PCA services 8pm-6am overnight. After discussion about this schedule between the MassHealth representative and the appellant's representatives, the MassAbility supervisor realized that she had made an error and transposed the columns for PCA and the hours for the HHA services. She stated on the record that she made an error, and that the columns should be reversed; the appellant receives PCA services 6am-6pm and HHA services 8pm-6am; and she receives 69 PCA hours and 74 HHA hours total weekly. Testimony.

assistance. This activity involves the PCA physically assisting the appellant with taking her medications throughout the day. The appellant's PCM agency requested two minutes per episode, five times per day, seven days per week (2x5x7). MassHealth modified this request to two minutes per episode, two times per day, seven days per week (2x2x7). After discussion among the MassHealth representative and the appellant's representatives, it was agreed that this category would be approved as requested by the appellant's PCM agency, two minutes per episode, five times per day, seven days per week (2x5x7). Therefore, with both parties in agreement, the category of medication assistance is no longer in dispute.

The fourteen remaining disputed categories are: mobility, transfers, repositioning, bathing, special bathing transfers, grooming - oral care, grooming - other, dressing, eating (2), bladder care, special toileting transfers, laundry, and housekeeping.

Mobility

The MassHealth representative testified that the time requested under the mobility category was for time to mobilize the appellant inside her home. The time requested for this task was three minutes per episode of mobility, six episodes per day, seven days per week (3x6x7). The MassHealth representative explained that this category was modified to three minutes per episode of mobility, three episodes per day, seven days per week (3x3x7) because the documentation submitted to MassHealth indicates that the appellant has home health aide services in place, and it is reasonable that the home health aide will also move the consumer. The appellant's mother responded that the home health aide does not work all of the same hours that the PCA works. The MassAbility supervisor stated that there is never a PCA and a home health aide in the home at the same time. The home health aide will mobilize the appellant during his or her hours. Testimony.

Transfers

The MassHealth representative testified that the time requested under the transfers category was for time to move the appellant from her bed to her chair. The time requested for this task was fifteen minutes per episode, four episodes per day, seven days per week (15x4x7). The MassHealth representative explained that this category was modified to fifteen minutes per episode, one episode per day, seven days per week (15x1x7) because the supporting documentation that was submitted indicates that the appellant has this task performed mostly by her home health aide. The home health aide is performing the majority of the transfers based upon the information the MassHealth representative reviewed. The appellant's mother stated that the appellant's PCA and home health aide never work the same hours, that the PCA hours are the daytime hours, that the appellant will typically have four transfers in a day, and that it is not easy to cap the number of total transfer episodes at four. "It could be more; it could be less." Testimony. The appellant's caseworker testified that the appellant will always be transferred in the morning, and then it depends on what is scheduled in her day or how the

appellant is feeling that dictates how many transfers episodes the appellant may have in a day. If the appellant has a doctor's appointment or is going through a difficult time in her menstrual cycle or otherwise experiencing discomfort, there is a need to transfer the appellant more frequently to try to make her as comfortable as possible.

Repositioning

The MassHealth representative testified that the time requested under the repositioning category was for time to adjust the appellant's position after a transfer or other activity. The time requested for this task was two minutes per episode, eight episodes per day, seven days per week (2x8x7). The MassHealth representative explained that this category was modified to two minutes per episode, three episodes per day, seven days per week (2x3x7) because MassHealth has found that the service appellant is requesting, the task of repositioning the appellant, is already covered by the home health aide services the appellant receives. By way of explanation, the MassHealth representative referred to the home health agency's "deferral response" on behalf of the appellant. See Exhibit 5 at 62. She stated that the deferral response says, "consumer is repositioned every two hours by the home health aide." She said the time for each episode was not modified; just the frequency was modified based upon the submitted deferral response.

Bathing

The MassHealth representative testified that the time requested under the bathing category was requested for PCA assistance with the appellant's daily showering activity. The appellant is categorized as having "total dependence" on her PCA to accomplish all bathing tasks. Exhibit 5 at 14. The time requested for this task was forty-five minutes per bathing episode, one episode per day, seven days per week (45x1x7). The MassHealth representative explained that this category was modified to zero, because the deferral response from MassAbility on behalf of the appellant indicated that the appellant's home health aide performs the appellant's daily shower. Testimony, Exhibit 5 at 62. Under the regulations, MassHealth will not pay for duplicated services and the submission by the appellant indicates that the PCA does not perform the daily shower. The appellant's mother responded that the PCA will also bathe the appellant; it really depends on the appellant's needs and the type of day that she is having.

Special bathing transfers

The MassHealth representative testified that the time requested under the special bathing transfers category was for the appellant's PCA to use the appellant's mechanical lift to transfer her in and out of the shower. The time requested for this task was 15 minutes per episode, two episodes per day, seven days per week (15x2x7). The MassHealth representative explained that this category was modified to zero because duplicative services are already available to the appellant. The MassHealth representative again referenced the deferral response from the appellant's home health agency as the basis for MassHealth modification in this category. Testimony. She stated that if the home health aide is performing the bathing task, it is

reasonable to infer that the home health aide is also the one doing the transfers. It was the appellant's mother's testimony that the appellant's home health aide and PCA are never in the appellant's home at same time.

Grooming – oral care

The MassHealth representative testified that the time requested under the grooming – oral care category was for time for the appellant's PCA to physically brush the appellant's teeth and perform all aspects of her oral care. The time requested for this task was two minutes per episode, two episodes per day, seven days per week (2x2x7). The MassHealth representative explained that this category was modified to two minutes per episode, one episode per day, seven days per week (2x1x7) because MassHealth has found that the service the appellant is requesting is duplicated by the appellant's home health aide. Testimony. The appellant's mother testified that this category was accurate as requested, that the appellant's PCA is the one who performs all the appellant's oral care, and that the appellant is unable to assist her PCA with this task in any way. The appellant's mother stated that the appellant will choke and cannot help. Testimony.

Grooming - other

The MassHealth representative testified that the time requested under the mobility category was for time for the PCA to apply lotion to the appellant's body every day. The time requested for this task was five minutes per episode, one episode per day, seven days per week (5x1x7). The MassHealth representative explained that this category was modified to zero because MassHealth has found that the service the appellant is requesting is duplicated by the appellant's home health aide. Testimony. The appellant's mother stated that the appellant's PCA is the one who applies the lotion to the appellant every day. It is her belief that the application of lotion to the appellant takes even longer than the requested five minutes per episode because the appellant suffers from contractures of her limbs and body. Her limbs are not straight, and it takes time to apply the lotion all over the appellant's body; the appellant is unable to assist her PCA in any way. Testimony.

Dressing

The MassHealth representative testified that the time requested under the dressing category is for time for the PCA to physically dress the appellant each day. The time requested for this task was twenty-five minutes per day, one episode per day, seven days per week (25x1x7). The MassHealth representative explained that this category was modified to fifteen minutes per day, one episode per day, seven days per week (15x1x7) because the MassHealth reviewer determined that the time requested is longer than ordinarily required for someone with the appellant's needs, and also there is a duplication of services in this category with the appellant's home health aide. The appellant-mother explained that the appellant is unable to raise her arms due to the contractures she experiences in her body. She emphasized that the appellant cannot help at all

and cannot turn her body. It is her opinion that twenty-five minutes is not long enough for the PCA to accomplish this task. The appellant's mother confirmed that it is the PCA who is undressing and dressing the appellant every day. The home health aide will dress and undress the appellant as needed.

Eating

The MassHealth representative testified that the time requested under the eating category was for time for the PCA to physically feed the appellant her meals and snacks. The time for meals and snacks is requested separately under the eating category. The time requested for meals was twenty-five minutes per episode, three episodes per day, seven days per week (25x3x7). MassHealth modified this category to twenty-five minutes per episode, one episode per day, seven days per week (25x1x7). The time requested for snacks was five minutes per episode, six episodes per day, seven days per week (5x6x7). MassHealth modified this request to five minutes per episode, two episodes per day, seven days per week (5x2x7). The MassHealth representative explained that both the mealtime and snack time were modified because these services are duplicated by the appellant's home health aide. The documentation submitted indicates that the PCA feeds the appellant one meal and gives the appellant two drinks per day. Testimony. The appellant's mother explained that this information was not correct; the PCA feeds the appellant all her meals every day. The PCA does give her two drinks as well. Testimony. The home health aide will also give drinks and snacks, but the home health aide does not give the appellant her meals.

Bladder care

The MassHealth representative testified that the time requested under the bladder care category was for time for the appellant's PCA to physically assist the appellant with all aspects of bladder care and hygiene. The time requested for this task was ten minutes per episode, five episodes per day, seven days per week (10x5x7). The MassHealth representative explained that this category was modified to ten minutes per episode, two episodes per day, seven days per week (10x2x7) because MassHealth determined that the services requested are duplicated by other services available to the appellant. Testimony and Exhibit 5 at 62. In response, the appellant's mother stated that the appellant has at least five (5) toileting episodes during a PCA shift and that the PCA performs all tasks associated with bladder care and hygiene for the appellant. Testimony.

Special toileting transfers

The MassHealth representative testified that the time requested under the special toileting transfers category was for time to operate the appellant's mechanical lift to her toilet/commode, manage her hygiene and clothing, and return the appellant to her original position. The time requested for this task was fifteen minutes per episode, six episodes per day, seven days per week (15x6x7). The MassHealth representative explained that this category was modified to fifteen minutes per episode, three episodes per day, seven days per week (15x3x7) because MassHealth

determined that the services requested are duplicated by other services available to the appellant. Testimony and Exhibit 5 at 62. The notes accompanying the PCM request for this task state: "Consumer is Hoyer lifted to toilet, she wears diapers and requires A to doff soiled diaper, toileting hygiene, clothing management and transfer back to original position. Consumer is D[ependent] for toileting tasks d/t bil UE [due to bilateral upper extremity] contractures, pain, anoxic brain injury." Exhibit 5 at 20. After questioning by the MassHealth representative, the appellant's mother confirmed that the appellant uses a Hoyer lift to be moved from her bed or chair to a toilet or commode. The appellant wears diapers, and sometimes she is diapered directly in her bed. The appellant's mother testified that the appellant is transferred to a toilet or commode at least two times per day. The MassHealth representative found this request duplicative because the appellant has transfer time allotted under the transfer category – these are for in and out of bed, and if the appellant is being diapered in bed in the morning, there is no need for a special toileting transfer at that time. Testimony.

Laundry

The MassHealth representative testified that the time requested under the IADL category of laundry was for time for the appellant's PCA to run loads of laundry and fold the appellant's clothing. The time requested for this task was forty-five minutes per week (45x1x1). The MassHealth representative explained that this category was modified to zero because the documentation submitted indicates that the appellant's home health aide is doing the appellant's laundry. The appellant's mother explained that the laundry is not on a schedule, and it is done as needed. Sometimes the PCA does the laundry; sometimes the home health aide does the laundry. During the weeks when the appellant has her menstrual cycle, there is more laundry. Testimony.

The MassHealth representative responded that MassHealth is trying to prevent overlap in services. The documentation that she has indicates that the appellant has 78 hours of home health aide services per week. With the forty-nine hours that the appellant has received from MassHealth for PCA services, this means that the appellant has overlapping hours. She explained that the appellant's PCM requested overnight hours as well for the PCA services, and that is why the request is not correct and causing issues with the home health aide schedule. Testimony.

The MassAbility supervisor explained she personally submitted the "deferral response" on behalf of the appellant, which the MassHealth representative referred to many times during her testimony as the basis for the modifications by the MassHealth reviewer. The MassAbility supervisor explained that she was new to this process, and that she thought that she was meant to summarize the services that the home health aide is able to perform during her shift, not the tasks and services that she was actually performing for the appellant. The MassHealth representative explained that it was difficult in this case for her to overturn the MassHealth

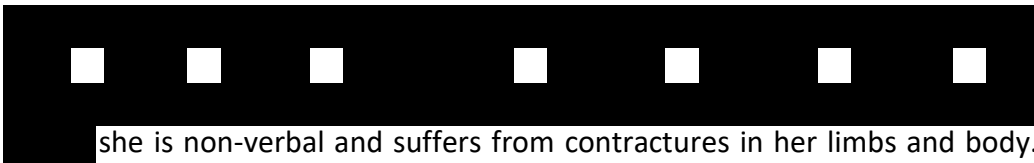
modifications, because the documentation and the request by the PCM agency have flaws, and she must follow the regulations.

Housekeeping

The MassHealth representative testified that the time requested under the housekeeping category was for time for the appellant's PCA to do light housekeeping, such as vacuuming or tidying the appellant's living space. The time requested for this task was thirty minutes per week (30x1x1). The MassHealth representative explained that this category was modified to zero because the documentation submitted indicates that the appellant's home health aide is doing the appellant's housekeeping tasks. Testimony and Exhibit 5 at 62. The appellant's mother acknowledged that sometimes the home health aide is doing housekeeping tasks at night, but that the PCA also does housekeeping. She does not think thirty minutes is enough time. Testimony.

Findings of Fact

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

1. The appellant is an adult MassHealth member under the age of 65.
2.  she is non-verbal and suffers from contractures in her limbs and body. She is "totally dependent" on her PCA to accomplish all tasks. Testimony and Exhibit 5.
3. The appellant lives alone in a home that was adapted to her needs and receives home health aide services and skilled nursing visits in addition to PCA services. Testimony.
4. The home health aide is scheduled for night shifts (8:00 P.M. – 6:00 A.M.) and the PCA is scheduled for daytime shifts (6:00 A.M. – 6:00 P.M.). Exhibit 6.
5. On November 20, 2024, appellant's PCM agency, Tempus Unlimited, sent MassHealth a PA request seeking eighty (80) hours and thirty (30) minutes per week for the service period of 12/10/2024-12/9/2025. Testimony and Exhibit 5.
6. On November 27, 2024, MassHealth modified the request in fifteen (15) categories and approved the appellant for 44 hours and 45 minutes per week for the service period of 12/10/2024-12/9/2025; specifically, by modifying the times

for “mobility, transfers, repositioning, bathing, special bathing transfers, grooming - oral care, grooming - other, dressing, eating (2), bladder care, special toileting transfers, medication assistance, laundry, and housekeeping.” Exhibits 1 and 5.

7. At hearing, MassHealth approved the following category as requested by the appellant’s PCM agency: medication assistance, two minutes per episode, five times per day, seven days per week (2x5x7), or seventy minutes (70) per week, resolving the dispute related to PCA assistance with this task. Testimony.
8. The appellant seeks time for PCA assistance with mobility as follows: three minutes per episode of mobility, six episodes per day, seven days per week (3x6x7) (126 minutes per week.) Testimony and Exhibit 5.
9. MassHealth approved three minutes per episode of mobility, three episodes per day, seven days per week (3x3x7) (63 minutes per week.) Testimony and Exhibit 5.
10. The appellant seeks time for PCA assistance with transfers as follows: fifteen minutes per episode, four episodes per day, seven days per week (15x4x7) (420 minutes per week.) Testimony and Exhibit 5.
11. MassHealth approved fifteen minutes per episode, four episodes per day, seven days per week (15x1x7) (105 minutes per week) for PCA assistance with transfers. Testimony and Exhibit 5.
12. The appellant seeks time for PCA assistance with repositioning as follows: two minutes per episode, eight episodes per day, seven days per week (2x8x7) (112 minutes per week.) Testimony and Exhibit 5.
13. MassHealth approved two minutes of PCA assistance per episode, three episodes per day, seven days a week (2x3x7) (42 minutes per week.) Testimony and Exhibit 5.
14. The appellant seeks time for PCA assistance with bathing as follows: 45 minutes per episode, 1 time per day, 7 days per week (45x1x7) (315 minutes per week.) Testimony and Exhibit 5.
15. MassHealth approved zero minutes of PCA assistance with bathing. Testimony and Exhibit 5.
16. The appellant seeks time for PCA assistance with special bathing transfers as

follows: 15 minutes per episode, 2 episodes per day, 7 days per week (15x2x7) (210 minutes per week.) Testimony and Exhibit 5.

17. MassHealth approved zero minutes of PCA assistance with special bathing transfers. Testimony and Exhibit 5.
18. The appellant seeks time for PCA assistance with grooming – oral care as follows: two minutes per episode, 2 episodes per day, seven days per week (2x2x7) (28 minutes per week.) Testimony and Exhibit 5.
19. MassHealth approved grooming – oral care as follows: two minutes per episode, 1 episode per day, seven days per week (2x1x7) (14 minutes per week.) Testimony and Exhibit 5.
20. The appellant seeks time for PCA assistance with grooming - other as follows: five minutes per episode, 1 episode per day, seven days per week (5x1x7) (35 minutes per week). Testimony and Exhibit 5.
21. MassHealth approved zero minutes per week for grooming - other. Testimony and Exhibit 5.
22. The appellant seeks time for PCA assistance with dressing as follows: twenty-five minutes per episode, one episode per day, seven days per week (25x1x7) (175 minutes per week.) Testimony and Exhibit 5.
23. MassHealth approved dressing as follows: fifteen minutes per episode, one episode per day, seven days per week (15x1x7) (105 minutes per week.) Testimony and Exhibit 5.
24. The appellant seeks time for PCA assistance with eating as follows: meals, twenty-five minutes per episode, three episodes per day, seven days per week (25x3x7) (525 minutes per week); snacks, five minutes per episode, six episodes per day, seven days per week (5x6x7) (210 minutes per week.) Testimony and Exhibit 5.
25. MassHealth approved eating as follows: for meals, twenty-five minutes per episode, one episode per day, seven days per week (25x1x7) (175 minutes per week), and for snacks, five minutes per episode, two episodes per day, seven days per week (5x2x7) (70 minutes per week.) Testimony and Exhibit 5.
26. The appellant seeks time for PCA assistance with bladder care as follows: ten minutes per episode, five episodes per day, seven days per week (10x5x7) (350

minutes per week.) Testimony and Exhibit 5.

27. MassHealth approved bladder care as follows: ten minutes per episode, two episodes per day, seven days per week (10x2x7) (140 minutes per week.) Testimony and Exhibit 5.
28. The appellant seeks time for PCA assistance with special toileting transfers as follows: fifteen minutes per episode, six episodes per day, seven days per week (15x6x7) (630 minutes per week.) Testimony and Exhibit 5.
29. MassHealth approved special toileting transfers as follows: fifteen minutes per episode, three episodes per day, seven days per week (15x3x7) (315 minutes per week.) Testimony and Exhibit 5.
30. The appellant seeks time for PCA assistance with laundry as follows: forty-five (45) minutes per week. Testimony and Exhibit 5.
31. MassHealth approved zero minutes per week for PCA assistance with laundry. Testimony and Exhibit 5.
32. The appellant seeks time for PCA assistance with housekeeping as follows: thirty (30) minutes per week. Testimony and Exhibit 5.
33. MassHealth approved zero minutes per week for PCA assistance with housekeeping. Testimony and Exhibit 5.

Analysis and Conclusions of Law

MassHealth covers personal care services provided to eligible MassHealth members who can be appropriately cared for in the home when all of the following conditions are met:

- (1) The personal care services 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 following ADLs as defined in 130 CMR 422.410(A):
 - (a) mobility, including transfers;
 - (b) medications,

- (c) bathing or grooming;
- (d) dressing or undressing;
- (e) range-of-motion exercises;
- (f) eating; and
- (g) toileting.

(4) The Division has determined that the PCA services are medically necessary and has granted a prior authorization for PCA services.

See 130 CMR 422.403(C).

The requested services must also be medically necessary for the 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.

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 Division. Services that are less costly to the Division include, but are not limited to, health care reasonably known by the provider or identified by the Division 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.
- (B) Medically necessary services must be of a quality that meets professionally recognized standards of health care, and must be substantiated by records including evidence of such medical necessity and quality. A provider must make those records, including medical records, available to the Division upon request. (See 42 U.S.C. 1396a(a)(30) and 42 CFR 440.230 and 440.260.)
- (C) A provider's opinion or clinical determination that a service is not medically necessary does not constitute an action by the MassHealth agency.

See 130 CMR 450.204.

Pursuant to 130 CMR 422.410(A), 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.

Pursuant to 130 CMR 422.410(B), 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 Division as being instrumental to the health care of the member.

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;

(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; or

(G) surrogates, as defined in 130 CMR 422.402.

See, 130 CMR 422.412 (emphasis added).

The appeal is dismissed as to medication assistance because at hearing, the parties were able to resolve the dispute in this category of PCA assistance. MassHealth fully restored time as requested for PCA assistance with medication assistance to two minutes per episode, five times per day, seven days per week (2x5x7), or seventy minutes (70) per week, which resolved the disputes related to PCA assistance with this task.

The portion of the appeal related to the category of medication assistance is therefore DISMISSED.

Here, there is no dispute as to whether or not the appellant's request for PCA services is medically necessary; rather, the issue for many of the disputed categories in this appeal is whether there is a duplication of services between the appellant's PCA and home health aide. MassHealth reviewed supplementary documentation submitted on the appellant's behalf that caused many of the requested categories to be modified. The appellant should not be penalized for the errors in paperwork when she is "totally dependent" on her caregivers to accomplish her every need. The testimony of the appellant's representatives and the written record indicate that the appellant's PCA is scheduled during daytime hours and the appellant's home health aides are scheduled during nighttime hours. Testimony and Exhibit 6. The testimony of the appellant's mother/guardian was especially persuasive; it clarified the record as to the schedule of the appellant's caretakers, who is performing which task for the appellant, and what time of day those tasks are performed. The record shows that the appellant's PCA performs the following tasks: mobility, transfers, repositioning, bathing, special bathing transfers, grooming - oral care, grooming - other, dressing, eating (2), and bladder care, and that these tasks are not being duplicated by another agency.

For these reasons, MassHealth erred in their decision to modify the appellant's requested time for the following categories: mobility, transfers, repositioning, bathing, special bathing transfers, grooming - oral care, grooming - other, dressing, eating (2), and bladder care, and the appeal is hereby APPROVED as to these categories.

As to the appellant's request for PCA assistance with special toileting transfers, the appeal is denied. The appellant requested 15x6x7, or 630 minutes per week, of PCA assistance with special toileting transfers, and this was modified to 15x3x7, or 315 minutes per week. This task involves the appellant's PCA using the appellant's Hoyer lift to transfer the appellant to her toilet or commode. The appellant's mother's testimony on this category was not persuasive. When the MassHealth representative asked the appellant's mother how frequently the appellant was transferred to a toilet and not diapered lying in her bed, the appellant's mother was unsure of the frequency, stating that it occurred at least twice per day. The appellant's mother was unable to credibly explain why the three extra episodes for special toileting transfers are medically necessary, and there was no evidence presented that explained why the appellant needs the additional three episodes. The appellant has not shown that additional episodes of special toileting transfers are medically necessary.

This portion of the appeal is therefore DENIED.

As to the appellant's request for PCA assistance with laundry, this portion of the appeal is denied. The appellant requested 45 minutes per week for assistance with laundry. MassHealth modified this request to zero minutes per week. MassHealth correctly modified this request because the record shows that appellant resides in a household that receives liaison services from another agency that are duplicative of the services requested by the appellant's PCM agency, and the regulations direct that MassHealth will not cover such duplicated services.

This portion of the appeal is therefore DENIED.

As to the Appellant's request for PCA assistance with housekeeping, this portion of the appeal is also denied. The Appellant requested 30 minutes per week per week for assistance with housekeeping. MassHealth modified this request to zero minutes per week. MassHealth correctly modified this request because the record shows that appellant resides in a household that receives liaison services from another agency that are duplicative of the services requested by the appellant's PCM agency, and the regulations direct that MassHealth will not cover such duplicated services.

This portion of the appeal is therefore DENIED.

Order for MassHealth

Remove aid pending.

For the prior authorization period 12/12/2024-12/11/2025, approve the following amounts of PCA assistance for the appellant:

- Mobility: 3x6x7 (126 minutes per week);
- Transfers: 15x4x7 (420 minutes per week);
- Repositioning: 2x8x7 (112 minutes per week);
- Bathing: 45x1x7 (315 minutes per week);
- Special bathing transfers: 15x2x7 (210 minutes per week);
- Grooming - oral care: 2x2x7 (28 minutes per week);
- Grooming – other: 5x1x7 (35 minutes per week);
- Dressing: 25x1x7 (175 minutes per week);
- Eating: 25x3x7 (meals 525 minutes per week) and 5x2x7 (snacks 70 minutes per week);
- Bladder care: 10x5x7 (350 minutes per week);
- Special toileting transfers: 15x3x7 (315 minutes per week);
- Medication assistance: 2x5x7 (70 minutes per week);
- Laundry: zero minutes per week; and
- Housekeeping: zero minutes per week.

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.

Amy B. Kullar, Esq.
Hearing Officer
Board of Hearings

cc: [REDACTED]
[REDACTED]

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