

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Dismissed in part; Approved in part	Appeal Number:	2418754
Decision Date:	04/08/2025	Hearing Date:	02/19/2025
Hearing Officer:	Kimberly Scanlon		

Appearance for Appellant:



Appearance for MassHealth:

Donna Burns, R.N.



*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:	Dismissed in part; Approved in part	Issue:	Prior Authorization- PCA Services
Decision Date:	04/08/2025	Hearing Date:	02/19/2025
MassHealth's Rep.:	Donna Burns, R.N.	Appellant's Reps.:	██████
Hearing Location:	Quincy Harbor South 1 (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 November 13, 2024, MassHealth modified the appellant's prior authorization (PA) request for personal care attendant (PCA) services from the requested hours of 29 hours and 15 minutes of PCA assistance per week to 27 hours and 15 minutes per week. (Exhibit 1). The appellant filed this appeal in a timely manner on or about December 5, 2024. (130 CMR 610.015(B); Exhibit 2). Modification of a PA request is valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

MassHealth modified the appellant's PA request for PCA services.

Issue

The appeal issue is whether MassHealth was correct in modifying the appellant's PA request for PCA services.

Summary of Evidence

The MassHealth representative, who is a registered nurse and clinical appeals reviewer, testified that the appellant is a twin, who is under the age of 21. His primary medical diagnoses include autism, intellectual disability, PICA (in 2008), history of aggressive/destructive behavior, and impaired safety awareness. (Exhibit 11, p. 7). The MassHealth representative testified that [REDACTED] [REDACTED] a Personal Care Management (PCM) services agency submitted a PA reevaluation request to MassHealth on the appellant's behalf on November 7, 2024, seeking the following: 29 hours and 15 minutes per week. By notice dated November 13, 2024, MassHealth modified the requested time to 27 hours and 15 minutes per week (Exhibit 1, p. 2). The time period for this PA request is January 24, 2025 through January 23, 2026. *Id.*

The MassHealth representative testified that there were 2 modifications made. First, MassHealth modified the category of "Grooming (other)" from the requested time of 7 minutes, each day, 7 days per week to 5 minutes, each day, 7 days per week. She stated that the category of "Grooming (other)" is typically requested for the application of lotion and deodorant. She explained that 5 minutes is generally the maximum amount of time that MassHealth will approve under this category. The MassHealth representative testified that last year, the appellant was approved for 2 minutes under this category; his twin brother is currently approved for 2 minutes under this category. MassHealth's rationale for the modification is that the time requested for grooming is longer than ordinarily required for someone with his physical needs. The documentation submitted on behalf of the appellant states the consumer is a maximum assist to apply hygiene products/lotion daily and he can be anxious/resistant and has increased self-stimming behavior. (Exhibit 11, p. 16). The MassHealth representative asked if the appellant has skin problems or acne that require a special lotion.

The appellant was represented telephonically at the hearing by his parents. His mother stated the appellant suffers from bad acne on the back of his neck and on his back which requires a daily application of medicated lotion. His parents testified the modification made by MassHealth under this category did not concern them; they agreed to the modification in the grooming (other) category.

The second modification made was in the "Eating" category. MassHealth denied the requested time of 5 minutes, 2 times per day, 5 days per week, and 5 minutes, 3 times per day, 2 days per week for PCA assistance with eating because the clinical record submitted on behalf of the appellant indicates that he has sufficient functional ability to perform this task without physical assistance. The MassHealth representative stated that the documentation submitted on behalf of the appellant indicates that the requested time for eating is for supervision and cueing the appellant because he is easily distracted and is at risk of choking if he is not supervised. (Exhibit 11, p. 19). The MassHealth representative asked the appellant's representatives how the PCA assists the appellant with eating.

The appellant's mother expressed her confusion about MassHealth's denial in this category. She stated that this is the first time that the appellant's request for PCA assistance for eating has been

denied. (See, Exhibit 10). Additionally, the appellant's twin brother was approved for PCA assistance for eating, which added to her confusion. The appellant's mother testified that they must cut up the appellant's food for safety purposes. Otherwise, the appellant will put the food in his mouth all at once. She stated that she has been working with the appellant on this issue and often intervenes (hand over hand) to ensure that he does not choke. The appellant's father stated that his meat must be cut to appropriate sizes to prevent choking as well. The appellant's mother added that the appellant frequently jumps up from the table during meals (with food in his mouth) which requires a parent to physically direct him back to the table and sit down to finish chewing. She stated that each meal typically takes about 45 minutes. However, the PCM agency only requested the amount of time that it takes the PCA to physically assist the appellant with eating each meal (5 minutes).

The MassHealth representative asked if the PCA must put food into the appellant's mouth with a fork or spoon; the appellant's father responded affirmatively. The appellant's father stated that the appellant will often try to grab a bigger portion to chew. As a result, the PCA will have to take his hand and direct his fork or spoon to an appropriate portion size. The MassHealth representative explained that cueing and supervision are not covered services under the MassHealth PCA program. Rather, the PCA program covers the hands-on time it takes to assist with feeding the consumer. She explained that the documentation submitted on behalf of the appellant states that he will feed himself when supervised with cueing. (Exhibit 11, p. 19).

Findings of Fact

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

1. The appellant is under the age of 21 and a MassHealth member.
2. The appellant's medical diagnoses include autism, intellectual disability, PICA (in 2008), history of aggressive/destructive behavior, and impaired safety awareness.
3. [REDACTED], a PCM agency, submitted an initial evaluation request to MassHealth on the appellant's behalf on November 7, 2024, seeking the following: 29 hours and 15 minutes per week.
4. By notice dated November 13, 2024, MassHealth modified the requested assistance to 27 hours and 15 minutes per week.
5. The PA request at issue covers the time period of January 24, 2025 through January 23, 2026.
6. The appellant requested time for assistance with grooming (other), as follows: 7 minutes, each day, 7 days per week.

7. MassHealth modified the requested PCA assistance time for grooming (other) to 5 minutes, each day, 7 days per week.
8. At the hearing, the appellant's parents agreed with this modification made by MassHealth in the grooming (other) category.
9. The appellant requested time for assistance with eating as follows: 5 minutes, 2 times per day, 5 days per week (Monday-Friday) and 5 minutes, 3 times per day, 2 days per week (Saturday-Sunday).
10. MassHealth denied the requested time in this category.
11. The appellant requires moderate assistance (hand over hand) with eating.

Analysis and Conclusions of Law

MassHealth regulations about PCA services are found at 130 CMR 422.000 et seq. Regulation 130 CMR 422.402 defines a PCA as a person who is hired by the member or surrogate to provide PCA services, which are further defined as assistance with the activities of daily living (ADLs) and instrumental activities of daily living (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; (2) the member's disability is permanent or chronic in nature; (3) the member 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; and (4) MassHealth has determined that the PCA services are medically necessary and has granted a prior authorization for PCA services.

Activities of daily living are listed at 130 CMR 422.410(A) and include mobility, assistance with medications or other health-related needs, bathing/grooming, dressing and undressing, passive range-of-motion exercises, eating, and toileting (including bowel care and bladder care). MassHealth pays for PCA time in physically assisting members to perform the aforementioned activities of daily living.

Instrumental activities of daily living are those activities described in 130 CMR 422.410(B) that are instrumental to the care of the member's health and are performed by a PCA, such as meal preparation and clean-up, housekeeping, laundry, shopping, maintenance of medical equipment, transportation to medical providers, and completion of paperwork required for the member to receive personal care services. MassHealth pays for PCA time in physically assisting members to perform the instrumental activities of daily living (130 CMR 422.402).

Pursuant to 130 CMR 422.410(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 agency will consider individual circumstances when determining the number of hours of physical assistance that a member requires for IADLs.

Further, pursuant to 130 CMR 422.412, "Non-Covered Services:"

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, or a resident of a provider-operated residential facility subject to state licensure, such as a group home

(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;

(G) surrogates, as defined in 130 CMR 422.402; or

(H) PCA services provided to a member without the use of EVV as required by the MassHealth agency.

Pursuant to 130 CMR 450.204(A), 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 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 MassHealth. Services that are less costly to MassHealth include, but are not limited to, health care reasonably known by the provider, or identified by 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.

At issue in this appeal were modifications of time requested for PCA assistance for the appellant with the following ADLs: grooming (other) and eating.

At the hearing, the appellant's parents agreed to the modification that MassHealth made in the following category:

Grooming (Other): MassHealth modified the requested time of 7 minutes, each day, 7 days per week to 5 minutes, each day, 7 days per week.

Because the appellant's parents agreed with the modification made by MassHealth, as described above, this portion of the appeal is dismissed.

Eating:

The appellant requested 5 minutes of assistance with eating 2 times per day, 5 days per week (Monday-Friday) and 5 minutes of assistance with eating 3 times per day, 2 days per week (Saturday-Sunday). MassHealth denied this request on the basis that the documentation submitted on behalf of the appellant states that he can feed himself when supervised with cueing. Because supervision and cueing are not covered services under the MassHealth PCM program, the request was denied.

However, the documentation further states that the appellant requires moderate assistance (hand over hand) with all eating. The appellant's parents corroborated this statement and testified credibly that the appellant requires physical assistance with this task. I conclude that in this circumstance, the time requested is appropriate for the appellant because of his physical needs. MassHealth's PCA program specifically includes eating as a covered task, and in this instance, the

appellant has demonstrated that the requested amount of 5 minutes of assistance with eating 2 times per day, 5 days per week (Monday-Friday) and 5 minutes of assistance with eating 3 times per day, 2 days per week (Saturday-Sunday) is warranted. This portion of the appeal is approved.

For these reasons, this appeal is dismissed in part and approved in part.

Order for MassHealth

For the PA period for dates of service January 24, 2025, through January 23, 2026: (1) approve the appellant's request in full for eating at 5 minutes, 2 times per day, 5 days per week and 5 minutes, 3 times per day, 2 days per week; and (2) notify appellant of updated authorized PCA hours accordingly.

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 30 days after the date of this decision, you should contact Optum. 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.

Kimberly Scanlon
Hearing Officer
Board of Hearings

[REDACTED]

[REDACTED]

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