

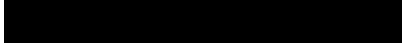
**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Dismissed in part; Denied in part	Appeal Number:	2419461
Decision Date:	3/27/2025	Hearing Date:	02/05/2025
Hearing Officer:	Christopher Jones		

Appearance for Appellant:



Appearance for MassHealth:

Robin Brown OTL/R



*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; Denied in part	Issue:	Prior Authorization - PCA
Decision Date:	3/27/2025	Hearing Date:	02/05/2025
MassHealth's Rep.:	Robin Brown OTL/R	Appellant's Rep.:	Guardian/Mother
Hearing Location:	Telephonic	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 December 9, 2024, MassHealth modified the appellant's request for personal care attendant services, allowing 50 hours and 30 minutes per week, fewer than were requested. (Exhibit 1; 130 CMR 422.410.) The appellant filed this timely appeal on December 20, 2025.¹ (Exhibit 2; 130 CMR 610.015(B).) Limitations of assistance are valid grounds for appeal. (130 CMR 610.032.)

Action Taken by MassHealth

MassHealth modified time requested for PCA assistance with clothing changes and eating.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 422.000 and 450.204, in determining that some of the requested time for PCA assistance is not medically necessary.

¹ The Board of Hearings dismissed this appeal, requesting that the signor of the appeal submit their authority to request a hearing. Guardianship paperwork was submitted on January 6, 2025. (Exhibits 3-5.)

Summary of Evidence

On or around December 6, 2024, the appellant's personal care management ("PCM") agency, [REDACTED] submitted a re-evaluation for personal care attendant ("PCA") services. This request sought 54 hours and 30 minutes per week of PCA services (3,264 minutes per week, including 840 nighttime minutes). The prior authorization period runs from December 25, 2024, through December 24, 2025. The appellant is a young man with a primary diagnosis of OPHN1 Syndrome, a genetic condition. The appellant's other diagnoses include autism with global delays, low muscle tone, seizure disorder, hearing loss, legal blindness, obsessive compulsive disorder, sensory defensiveness, celiac disease, and bowel incontinence.

MassHealth made 3 modifications, allowing less time than requested in the categories of Dressing, Undressing, and Eating (3,019 minutes per week, including 840 nighttime minutes). MassHealth's representative testified that the modification to Eating was a typographical error on MassHealth's part. MassHealth had allowed 2 instances of eating assistance per day at 10 minutes per instance, and MassHealth conceded that it should have allowed 3. This restored 70 minutes per week.

Regarding Dressing, the appellant requested 15 minutes, twice per day. For Undressing, the appellant requested 10 minutes, twice per day. MassHealth allowed one instance of Dressing and Undressing per day. MassHealth's representative explained that MassHealth considers the entire act of changing from nighttime clothes into daytime clothes in the morning as Dressing, and the act of changing into nighttime clothes as Undressing. Typically, MassHealth only allows one instance of Dressing and one instance of Undressing, unless there is a medical reason for allowing additional clothing changes. The notes from the request state the appellant requires clothing changes twice a day due to food spills, autism flare-ups, sensory defensiveness, intellectual disability, and obsessive-compulsive disorder issues. MassHealth's representative testified that clothing changes due to food spills could be handled using a bib or clothing cover, which would be a much faster way of ensuring the appellant's clothing stayed clean.

The appellant's guardian testified that the appellant's sensory defensiveness and OCD can result in very strong reactions to food spills. Sometimes the appellant demands a complete clothing change when there is only spillage on one article of clothing. The appellant usually requires multiple clothing changes throughout the day, though it is usually not a full change. The appellant's guardian did not believe that a napkin or bib would be a good solution. The appellant is pushed in tightly to the table, and he would not leave a napkin alone. The appellant's guardian stated that they would not put a bib on the appellant. The appellant's guardian did not believe the appellant would tolerate wearing a bib, and she also felt it was demeaning. The appellant's guardian testified that they are attempting to help the appellant develop as closely to an adult as possible. The appellant's guardian was concerned that wearing a bib would result in the appellant's choking more on foods. She explained that he already coughs on liquids and spews it everywhere. The appellant's guardian testified the appellant will also undress himself when he becomes agitated,

even if his clothing is clean. The appellant can also require a complete clothing change due to incontinence.

MassHealth's representative responded that there are adult bibs that are very soft. The frequency of the appellant's clothing changes could be reduced significantly with some protection for his clothing. Furthermore, time was already approved under Toileting for additional clothing changes related to incontinence. MassHealth's representative asked how frequently the appellant's agitation resulted in his clean clothing being changed. The appellant's guardian could not estimate how frequently the appellant requires non-mess related clothing changes, as it is very mood based. The appellant's guardian was offended by the prospect of using a bib, arguing the appellant is a full-grown adult, not a baby. The appellant's guardian testified that she and the PCA do their best to ensure that the appellant dresses like an adult, and make sure that he presents as an adult.

MassHealth's representative argued that if he requires clothing changes every time he eats, he should at least try using a bib before time is authorized for a second clothing change.

The appellant's primary care provider submitted a letter of support for additional hours of care. The primary care provider noted that "[h]e requires additional hours of care due to his complex medical conditions." The appellant's guardian also submitted a letter documenting that the appellant had been approved for 51 hours and 30 minutes following an appeal last year, and that they were requesting an increase of 3 hours per week because the appellant had moved in with his PCA. This letter argues that the additional hours arise "due to his new living arrangement *and* the amount of time needed for his PCA to assist him 24/7."

Findings of Fact

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

- 1) On or around December 6, 2024, the appellant's PCM agency, [REDACTED], submitted a re-evaluation for PCA services. This request sought 54 hours and 30 minutes per week of PC services (3,264 minutes per week, including 840 nighttime minutes). The prior authorization period runs from December 25, 2024, through December 24, 2025. (Exhibit 8, pp. 2, 34.)
- 2) The appellant is a young man with a primary diagnosis of OPHN1 Syndrome, a genetic condition. The appellant's other diagnoses include autism, global delays, low muscle tone, seizure disorder, hearing loss, legal blindness, obsessive compulsive disorder, sensory defensiveness, celiac disease, and bowel incontinence. (Exhibit 8, pp. 6-8.)
- 3) MassHealth's modification to Eating was a typographical error, and MassHealth agreed to restore 1 instance of eating assistance per day, for a total of 70 minutes per week. (Testimony by MassHealth's representative.)

- 4) The appellant's autism, sensory defensiveness, and OCD make him highly reactive to having soiled clothing. The appellant regularly requires clothing changes from food spills and incontinence. The appellant will also undress when agitated, though this is intermittent. The appellant requires some piece of clothing to be changed multiple times per day due to food spillage or incontinence, but no average number of changes could be estimated for mood-driven changes. (Testimony by the appellant's guardian.)
- 5) PCA time is allowed under Toileting for clothing changes related to incontinence. (Exhibit 8, p. 20.)
- 6) The appellant has not attempted using bibs or similar clothing protection to prevent the need for regular clothing changes resulting from food spillage. The appellant's guardian believed that the appellant would be resistive to wearing a bib, and she did not like the idea of infantilizing him with one. (Testimony by the appellant's guardian.)

Analysis and Conclusions of Law

MassHealth generally covers personal care attendant ("PCA") services provided to eligible MassHealth members with a permanent or chronic disability that impairs their functional ability to perform activities of daily living ("ADLs") and instrumental activities of daily living ("IADLs"), but who can be appropriately cared for in the home. MassHealth will only approve these services when they are medically necessary, and the member requires assistance with at least two ADLs. (See 130 CMR 422.403(C).)

The regulations define a service as "medically necessary" if 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 is "more conservative or less costly" than other available options. (130 CMR 450.204(A).)

ADLs include:

- (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 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.

(130 CMR 422.410(A).)

IADLs include:

(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 PCA services; and

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

(130 CMR 422.410(B).)

MassHealth will consider individual circumstances in determining the number of hours of PCA services that a member needs, but it assumes that family members will provide most routine IADLs. (See 130 CMR 422.410(C).) MassHealth limits what services it covers, within its broad definitions of ADLs and IADLs. For instance, MassHealth only covers the “activity time” of “providing assistance.” (130 CMR 422.411(A).) This means that MassHealth does not cover time waiting or downtime that may exist within a task. Further, there are certain services that MassHealth will not cover:

(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 [electronic visit verification] as required by the MassHealth agency.

(130 CMR 422.412 (emphasis added).)

As a preliminary matter, MassHealth acknowledged its modification to Eating was a typographical error and agreed to reinstate all requested time for Eating. Because this issue was resolved between the parties, this aspect of the appeal is DISMISSED. (130 CMR 610.035; 610.051.)

The remaining issue here is whether the appellant's need for additional clothing changes is medically necessary. MassHealth has already allowed time for changing the appellant related to incontinence, and the appellant's guardian was unable to provide an estimate of how frequently the appellant would undress himself due to agitation. Without some baseline upon which an average amount of time per week can be estimated, no time can be approved for this rationale. Similarly, MassHealth argued that it would be less costly to offer the appellant some method of protecting his clothing while eating than paying a PCA to change the appellant's clothing every time the appellant eats. The appellant's guardian did not dispute the effectiveness of MassHealth's alternative, but rather objected that it was offensive.

As a matter of evidence, I find that the appellant has not met their burden of proof to establish that additional clothing changes are medically necessary. The evidence does not allow me to find that the appellant has tried this less costly alternative and found it ineffective, nor does the appellant offer evidence from a medical professional indicating that wearing a bib or clothing protection would be clinically detrimental to the appellant. In the absence of any evidence contrary to MassHealth's clinical determination, this appeal must be DENIED.

Order for MassHealth

If not already done, restore all time requested for PCA assistance with Eating. This additional 70 minutes per week brings the appellant's total weekly time up to 3,089 minutes, or 51 hours and 30 minutes per week. This additional time shall be restored as of the beginning of the prior authorization period, December 25, 2024.

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.

Christopher Jones
Hearing Officer
Board of Hearings

cc:

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