

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2419578
<b>Decision Date:</b>	03/18/2025	<b>Hearing Date:</b>	01/22/2025
<b>Hearing Officer:</b>	Scott Bernard		

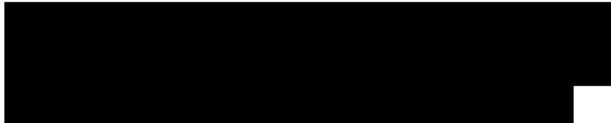
**Appearances for Appellant:**



**Appearance for MassHealth:**


Donna the MassHealth representative, RN via  
videoconference

**Interpreter:**



*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

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Prior Authorization (PA) Personal Care Attendant (PCA) Services
<b>Decision Date:</b>	03/18/2025	<b>Hearing Date:</b>	01/22/2025
<b>MassHealth's Rep.:</b>	Donna the MassHealth representative, RN	<b>Appellant's Reps.:</b>	
<b>Hearing Location:</b>	Quincy Harbor South	<b>Aid Pending:</b>	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 27, 2024, MassHealth approved the appellant's PA request for PCA services with one modification. (See 130 CMR 422.410(A)(3); 450.204(A)(1); and Exhibit (Ex.) 1; Ex. 6, pp. 3-4). The appellant filed this appeal in a timely manner on December 22, 2024. (See 130 CMR 610.015(B) and Ex. 2). Modification of a PA request for PCA services is valid grounds for appeal. (See 130 CMR 610.032).

### Action Taken by MassHealth

MassHealth approved the appellant's request for PCA services with a modification to one activity of daily living.

### Issue

The appeal issues are whether MassHealth was correct, pursuant to 130 CMR 422.410(A)(3); and 450.204(A)(1) in modifying the request for PCA services; and whether MassHealth and BOH have

jurisdiction over other aspects of the appellant's PCA services through the hearing process.

## Summary of Evidence

MassHealth was represented by a clinical appeals reviewer who was a registered nurse. The appellant spoke on her own behalf and was accompanied by her attorney-in-fact/health care proxy (the appellant's representative). A CART interpreter provided interpretation for the appellant. The appellant, the appellant's representative, and the CART interpreter appeared in person and the MassHealth representative appeared by video conference.

The MassHealth representative testified first and stated the following. According to documentation, the appellant is [REDACTED] with a primary diagnosis of upper spine fracture that occurred after a boating accident. (Testimony; Ex. 6, pp. 5-6). The documentation states that the appellant is deaf, but is able to speak, and can communicate through writing. (Id.). The appellant also has had an ileostomy due to colon removal. (Id.). A prior authorization request for personal care attendant (PCA) services reevaluation was submitted to MassHealth on November 25, 2024 by Tempus Unlimited (the PCM agency) for 34 hours, 15 minutes per week for one year. (Testimony; Ex. 1; Ex. 6, pp. 3-4). MassHealth approved 33 hours, 45 minutes per week of PCA services for dates of services from December 14, 2024 through December 13, 2025. (Id.).

MassHealth modified the time requested for one activity of daily living (ADL), which was grooming/nail care. (Testimony; Ex. 6, p. 15). The PCM agency requested five minutes per day, seven days per week but wrote "[n]ails clipped and cleaned weekly." (Id.). MassHealth modified the time requested to 10 minutes per week "because the time you requested for assistance with bathing or grooming is longer than ordinarily required for someone with your physical needs." (Testimony; Ex. 1; Ex. 6, pp. 3-4). The MassHealth representative stated that it appeared that the PCM agency made a mistake concerning the time requested and MassHealth fixed that error in the modification. (Testimony). The MassHealth representative stated that it would be unusual if the appellant's nails were clipped every day of the week, but did ask the appellant whether this was so. (Testimony). The appellant confirmed that the PCA clipped her nails one time per week. (Testimony).

The appellant and her representative both expressed concerns about errors in her medical records and the lack of communication from the PCM agency. (Testimony). The appellant described her serious health conditions, including chronic infections, hearing loss, low vision, and mobility issues, which result in the need for daily assistance. (Testimony). She raised issues with inaccuracies in her records, including what she suspects to be a forged signature, and argued that her needs were not accurately reflected, especially regarding personal care hours and additional assistance for tasks like shopping and medication pickup. (Testimony).

The appellant's representative echoed these concerns, accusing the PCM agency of unauthorized changes to the records and failure to correct discrepancies despite multiple complaints. (Testimony). He also pointed out missing doctor signatures, incorrect addresses, and inaccurate

evaluations, stressing that these errors could harm the appellant's healthcare. (Testimony). Although the appellant confirmed that the PCA did only clip her nails one time per week, she also felt that the time the PCM agency requested was not sufficient. (Testimony). Both the appellant and her representative asserted that the PCM agency was not responsive and wanted guidance on how to resolve these issues, including securing additional services such as transportation and shopping hours. (Testimony).

In response to the appellant and her representative's concerns, the MassHealth representative clarified the scope of the hearing and the limitations of MassHealth's authority. (Testimony). She explained that the hearing was limited to discussing modifications MassHealth made to the prior authorization request for PCA services. (Testimony). In this case, MassHealth made one modification, by reducing the time requested for nail care assistance from five minutes daily to ten minutes per week. (Testimony). Regarding the request for additional PCA hours, the MassHealth representative clarified that any request for more hours—whether for shopping, laundry, or transportation—must be submitted through the PCM agency. (Testimony). MassHealth, she stated, cannot unilaterally increase PCA hours. (Testimony).

The MassHealth representative emphasized that broader concerns about the PCM agency's handling of records or service requests were outside the scope of the hearing. (Testimony). The MassHealth representative explained that MassHealth's decisions are based solely on the information submitted by the PCM agency. (Testimony). Therefore, any errors in the appellant's records likely originated from the PCM agency. (Testimony). She advised the appellant and her representative to return to the PCM agency to address any discrepancies and request necessary adjustments to the records. (Testimony). In addressing the appellant's concerns about a potentially forged signature on official documents, the MassHealth representative explained that MassHealth does not oversee the verification of signatures. (Testimony). She recommended that the appellant reach out to the MassHealth Ombudsman for assistance in disputing any documentation issues. (Testimony).

The MassHealth representative continued by stating that while MassHealth acknowledged the appellant's medical conditions, such as hearing loss and neurogenic bladder, these conditions were not directly relevant to the specific issue under review—namely, the nail care hours. (Testimony). The MassHealth representative suggested that if the appellant is satisfied with her current PCA hours, she could wait for the next reevaluation. (Testimony). However, if the appellant felt she required additional hours, the MassHealth representative advised working with the PCM agency to submit a request for an adjustment. (Testimony). If the PCM agency remained unresponsive, the appellant did have the option to switch to a different PCM agency. (Testimony). The appellant indicated that she was reluctant to do this. (Testimony).

## **Findings of Fact**

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

1. According to documentation, the appellant is [REDACTED] with a primary diagnosis of upper spine fracture that occurred after a boating accident. (Testimony; Ex. 6, pp. 5-6).
2. The appellant is deaf, but is able to speak, and can communicate through writing. (Testimony; Ex. 6, pp. 5-6).
3. The appellant also has had an ileostomy due to colon removal. (Testimony; Ex. 6, pp. 5-6).
4. A prior authorization request for personal care attendant (PCA) services reevaluation was submitted to MassHealth on November 25, 2024 by the PCM agency for 34 hours, 15 minutes per week for one year. (Testimony; Ex. 1; Ex. 6, pp. 3-4).
5. MassHealth approved 33 hours, 45 minutes per week of PCA services for dates of services from December 14, 2024, through December 13, 2025. (Testimony; Ex. 1; Ex. 6, pp. 3-4).
6. MassHealth modified the time requested for one activity of daily living (ADL), grooming/nail care. (Testimony; Ex. 6, p. 15).
7. The PCM agency requested five minutes per day, seven days per week but wrote “[n]ails clipped and cleaned weekly.” (Testimony; Ex. 6, p. 15).
8. MassHealth modified the time requested to 10 minutes per week “because the time you requested for assistance with bathing or grooming is longer than ordinarily required for someone with your physical needs.” (Testimony; Ex. 1; Ex. 6, pp. 3-4).
9. The appellant confirmed that the PCA did only clip her nails one time per week. (Testimony).

## **Analysis and Conclusions of Law**

The PCM agency must request prior authorization from the MassHealth agency as a prerequisite to payment for PCA services. (130 CMR 422.416(A)). Prior authorization determines only the medical necessity of the authorized service. (*Id.*). MassHealth covers activity time performed by a PCA in aiding with ADLs and instrumental activities of daily living (IADLs). (130 CMR 422.411(A)). ADLs include certain specified activities that are fundamental to an individual’s self-care and include physical assistance for a member with bathing, personal hygiene, or grooming. (130 CMR 422.410(A)(3)).

MassHealth does not pay a provider for services that are not medically necessary and may impose sanctions on a provider for prescribing a service where such service is not medically necessary. (130 CMR 450.204). A service is medically necessary if, amongst other things, 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. (130 CMR 450.204(A)(1)).

If MassHealth approves a prior-authorization (PA) request for PCA services, it will send written notice to the member, the PCM agency, and the fiscal intermediary, detailing the frequency, duration, and intensity of the authorized care, as well as the expiration date of the authorization. (130 CMR 422.417(A)). If MassHealth agency denies or modifies the request, it will also send written notice to the member, the PCM agency, and the fiscal intermediary, explaining the reason for the denial or modification and informing the member of their right to appeal and the appeal process. (130 CMR 422.417(B)(1)). In the case of a denial or modification, the member may request a fair hearing by submitting a written request to the MassHealth Board of Hearings, in accordance with the time limits outlined in 130 CMR 610.015(B): Time Limitation on the Right of Appeal. Requests for continuation of services during the appeal must follow 130 CMR 610.036: Continuation of Benefits Pending Appeal, and the fair hearing will be conducted in accordance with 130 CMR 610.000: MassHealth: Fair Hearing Rules. (130 CMR 422.417(B)(2)).

The appellant has not provided sufficient evidence to show that MassHealth incorrectly modified her prior authorization (PA) request for PCA services. The record indicates that the PCM agency requested five minutes per day, seven days a week, for nail care, but also noted that the nails were to be "clipped and cleaned weekly," not daily. MassHealth modified this request, determining that the time requested was excessive. The MassHealth representative noted that the time as requested appeared to be an error. While the appellant argued for more overall PCA service time, she did not contest that her PCA assists with this ADL only once a week nor that it takes no longer than 10 minutes for this task. Additionally, while the appellant and her representative raised concerns about the accuracy of her medical records and the PCM agency's submissions to MassHealth, BOH does not have jurisdiction over these matters. BOH's jurisdiction is limited to MassHealth decisions regarding the modifications or denials of PA requests for PCA services, not the evaluations by the PCM agency. The only MassHealth action taken subject to appeal in this case is the modification of time regarding the grooming/nail care request.

For the above stated reasons, the appeal is DENIED.

## **Order for 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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Scott Bernard  
Hearing Officer  
Board of Hearings

cc:

[REDACTED]

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