

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Dismissed in part; Denied in part	Appeal Number:	2500065
Decision Date:	3/19/2025	Hearing Date:	01/29/2025
Hearing Officer:	Thomas Doyle	Record Open to:	N/A

Appearance for Appellant:



Appearance for MassHealth:

Robin Brown, OTR/L

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

Appeal Decision:	Dismissed in part; Denied in part	Issue:	Prior Authorization – PCA Services
Decision Date:	3/19/2025	Hearing Date:	01/29/2025
MassHealth's Rep.:	Robin Brown	Appellant's Rep.:	
Hearing Location:	Remote (phone)	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 prior authorization for Personal Care Attendant (PCA) services. (Ex. 1). Appellant filed this appeal in a timely manner on December 10, 2024. (130 CMR 610.015(B) and Ex. 2). Modification of a request for PCA services is a valid basis for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth modified the appellant's request for PCA services.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 422.410, in modifying the appellant's request for PCA services.

Summary of Evidence

The MassHealth representative, an Occupational Therapist, appeared at the hearing telephonically. Appellant was represented by her PCA, who acted as her appeal representative

and is an employee of the PCM agency, [REDACTED]. Both appeared by phone. The MassHealth representative testified that the appellant is in her [REDACTED] lives with her two minor children and has a primary diagnosis of Gitelman syndrome, swelling and chronic pain in all four limbs, and extreme sharp and stabbing pains with any movement. Appellant has a PICC line used for weekly IV infusions and a heart monitor. (Testimony; Ex. 4, p. 8). On December 12, 2024, appellant's provider, [REDACTED] submitted a prior authorization (PA) request for PCA services. The provider requested PCA services in the amount of 64 hours per week for the prior authorization period of December 22, 2024, to December 31, 2025. On December 9, 2024, MassHealth modified the request in several respects and approved 59 hours and 45 minutes per week. The appellant filed a timely appeal on December 10, 2024. (Testimony).

The MassHealth representative testified that there were 4 areas of modification to the PA request. At hearing, 2 of these modifications were resolved as follows:

Bathing: Appellant requested PCA assistance with Bathing in the amount of 45 minutes an episode, 1 episode a day, 7 days a week. (Ex. 4, p. 15). MassHealth modified the request to 40 minutes an episode, 1 episode a day, 7 days a week. (Testimony). After testimony from appellant and discussion between the parties, appellant agreed to the modified time for this request.

Toileting: Appellant requested PCA assistance with Toileting, bladder care, in the amount of 9 minutes an episode, 6 episodes a day, 7 days a week. (Ex. 4, p. 21). MassHealth modified the request to 6 minutes an episode, 6 episodes a day, 7 days a week. (Testimony). After testimony and discussion between the parties, MassHealth offered 8 minutes an episode, 6 episodes a day, 7 days a week. Appellant accepted MassHealth's modification to 8 minutes an episode, 6 episodes a day, 7 days a week. (Testimony).

The 2 areas of modification that remain in dispute are Mobility and Other Healthcare Needs. For each of these areas, the MassHealth representative testified to the basis for MassHealth's modification, and the appellant responded in turn.

Mobility:

Appellant requested PCA assistance with Mobility in the amount of 3 minutes an episode, 8 episodes a day, 7 days a week. (Testimony; Ex. 4, p. 12). MassHealth modified the request to 2 minutes an episode, 8 episodes a day, 7 days a week on the basis the time requested is longer than ordinarily required for someone with the appellant's physical needs. (Testimony). The MassHealth representative stated this was modified because it was stated in comments appellant "utilizes a wheelchair for all mobility and always requires wheelchair mobility." (Testimony; Ex. 4, p. 13). She stated this involves just moving from room to room and not getting up or sitting down. It is for pushing the wheelchair from one room to another because the time for getting up out of chair and getting back into a chair is covered in another section of the evaluation. (Testimony).

Regarding Mobility, the appeal representative had no questions for the MassHealth representative and he stated, "I don't want to say anything." (Testimony).

Other Healthcare Needs (menses care):

Appellant requested PCA assistance with menses care in the amount of 44 minutes a week. (Testimony; Ex. 4, p. 25). MassHealth modified the request to 20 minutes a week on the basis the time requested is longer than ordinarily required for someone with the appellant's physical needs. (Testimony). The MassHealth representative stated this task is typically performed during Toileting time and includes cleansing and changing an absorbent product. (Testimony).

The appeal representative stated he had no questions for the MassHealth representative. The witness from the PCM agency asked the appeal representative if he wanted to say anything else regarding the menses care and he said no. The witness stated they appealed because the time requested this year is the same as what was requested last year and last year was approved. She stated the family was confused because there had been some changes to appellant's medical diagnosis this year and the hours were reduced. (Testimony).

Findings of Fact

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

1. Appellant is in her [REDACTED] lives with her two minor children and has a primary diagnosis of Gitelman syndrome, swelling and chronic pain in all four limbs, and extreme sharp and stabbing pains with any movement. Appellant has a PICC line used for weekly IV infusions and a heart monitor. (Testimony; Ex. 4, p. 8).
2. On December 12, 2024, appellant's provider, [REDACTED] submitted a prior authorization (PA) request for PCA services, requesting 64 hours per week for the prior authorization period of December 22, 2024, to December 31, 2025. On December 9, 2024, MassHealth modified the request in several respects and approved 59 hours and 45 minutes per week. (Testimony).
3. Appellant filed a timely appeal on December 10, 2024. (Testimony; Ex. 2).
4. At hearing, the parties resolved 2 of the modifications (related to Bathing and Toileting). (Testimony). The modifications for Mobility and Other Healthcare Needs remained in dispute. (Testimony).
5. Appellant requested PCA assistance with Mobility in the amount of 3 minutes an episode, 8 episodes a day, 7 days a week. (Testimony; Ex. 4, p. 12). MassHealth modified the request to 2

minutes an episode, 8 episodes a day, 7 days a week. (Testimony; Ex. 4, p. 12).

6. Appellant requested PCA assistance with Other Healthcare Needs, menses care, in the amount of 44 minutes a week. (Testimony; Ex. 4, p. 25). MassHealth modified the request to 20 minutes a week. (Testimony; Ex. 4, p. 25).

Analysis and Conclusions of Law

Regulations concerning Personal Care Attendant (PCA) Services are found at 130 CMR 422.000, et seq. PCA services are physical assistance with 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 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 ADLs as defined in 130 CMR 422.410(A); and (4) MassHealth has determined that the PCA services are medically necessary. ADLs and IADLs are addressed in 130 CMR 422.410, which provides as follows:

(A) Activities of Daily Living (ADLs). 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 (IADLs). 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 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.

(2) MassHealth will consider individual circumstances when determining the number of hours of physical assistance that a member requires for IADLs.

In this case, MassHealth modified the appellant's PA request for PCA services by reducing the time requested for several activities. After resolution of some of these modifications at hearing, the areas of Mobility and Other Healthcare Needs, menses care, remain in dispute.

Appellant disagreed with the medically necessary decision of MassHealth in modifying her hours for PCA services. The appellant has the burden "to demonstrate the invalidity of the administrative determination." [REDACTED]

Mobility:

Appellant requested PCA assistance with Mobility in the amount of 3 minutes an episode, 8 episodes a day, 7 days a week. (Testimony; Ex. 4, p. 12). MassHealth modified the request to 2 minutes an episode, 8 episodes a day, 7 days a week on the basis the time requested is longer than ordinarily required for someone with the appellant's physical needs. The MassHealth representative stated this was modified because it was stated in comments appellant "utilizes a wheelchair for all mobility and always requires wheelchair mobility." (Testimony; Ex. 4, p. 13). She stated this involves just moving from room to room and not getting up or sitting down. It is for pushing the wheelchair from one room to another because the time for getting up out of chair and getting back into a chair is covered in another section of the evaluation. I find the MassHealth representative's testimony credible and supported by the record. Appellant did not offer any evidence to support the medical necessity for the requested time for this task. This part of the appeal is denied.

Other Healthcare Needs (Menses care):

Appellant requested PCA assistance with menses care in the amount of 44 minutes a week. (Testimony; Ex. 4, p. 25). MassHealth modified the request to 20 minutes a week on the basis the time requested is longer than ordinarily required for someone with the appellant's physical needs. The MassHealth representative stated this task is typically performed during Toileting time and includes cleansing and changing an absorbent product. I find the MassHealth representative's testimony credible and supported by the record. Appellant did not offer any evidence to support the medical necessity for the requested time for this task. This part of the appeal is denied.

For the reasons set forth above, appellant has not demonstrated the medical necessity of the full PCA time requested for Mobility and Other Healthcare Needs, menses care. This appeal is denied in part (as to these 2 issues) and dismissed in part (as to the issues resolved at hearing).

Order for MassHealth

Implement the changes agreed upon at hearing.

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.

Thomas Doyle
Hearing Officer
Board of Hearings

cc: [REDACTED]

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