

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Dismissed in part; Denied in part	Appeal Number:	2500067
Decision Date:	3/26/2025	Hearing Date:	02/03/2025
Hearing Officer:	Marc Tonaszuck		

Appearance for Appellant:




Appearance for MassHealth:

Donna Burns, RN, 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:	Dismissed in part; Denied in part	Issue:	Prior Authorization – Personal Care Attendant (PCA) Services
Decision Date:	3/26/2025	Hearing Date:	02/03/2025
MassHealth's Rep.:	Donna Burns, RN, Optum	Appellant's Rep.:	
Hearing Location:	Quincy Harbor South	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 12/24/2024, MassHealth modified the appellant's prior authorization request for personal care attendant (PCA) services from a requested 43 hours and 00 minutes (43:00) hours per week to 32:30 hours per week for the dates of service from 02/14/2025 to 02/13/2026 (130 CMR 422.410; Exhibit 1). On 01/02/2025 a timely appeal was filed by the appellant (130 CMR 610.015(B); Exhibit 2). Individual MassHealth agency determinations regarding scope and amount of assistance (including, but not limited to, level-of-care determinations) are grounds for appeal (130 CMR 610.032).

Action Taken by MassHealth

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

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 422.410 and 450.204, in modifying appellant's prior authorization request for personal care attendant services.

Summary of Evidence

Both the appellant's representative and the MassHealth representative appeared telephonically. Exhibits were admitted into evidence (1-5).

The MassHealth representative testified that she is licensed registered nurse who works for Optum, the MassHealth contractor that makes the personal care attendant (PCA) decisions. She testified that a prior authorization request (PA) for PCA services was received on appellant's behalf from her PCA agency (PCM), [REDACTED] ("provider"), for the dates of service of 02/14/2025 to 02/13/2026. In the PA request for PCA services (Exhibit 5), a re-evaluation, the provider requested 43:00 hours per week of PCA assistance. The appellant is an adult woman who has a primary diagnosis of traumatic brain injury (TBI) and she is non-verbal (Exhibit 5).

The Optum representative testified that on 12/24/2024 MassHealth modified the PCA request to 32:30 hours per week. Modifications were made to the request for PCA services that include modifications in the activities of daily living (ADL) tasks of bathing/quick wash, grooming/oral care, undressing, assistance with eating, and bladder care, and in the instrumental activities of daily living (IADL) tasks of meal preparation and clean-up.

The MassHealth representative explained that the appellant has other MassHealth-provided services in the home from 10:00 a.m. to midnight. The PCA time requested for that period of time when the appellant has access to other services was denied due to a duplication of services. The time requested for PCA services from midnight to 6:00 a.m. was approved, including all requested night-time attendant services (from 12:00 a.m. to 6:00 a.m.). The remaining modifications involved time requested beyond the time from 6:00 a.m. to 10:00 a.m.

Bathing

The appellant's PCM requested 30 minutes, 1 time per day, 7 days per week (30 X 1 X 7) for bathing and 10 X 1 X 7 for an evening quick wash. The provider noted that

"due to TBI, [the appellant] with cognitive deficits is unable to plan or initiate of sequence the tasks; does not follow directions. She requires assistance to turn on water/adjust temp, and to step in and out of shower for safety. Reports in shower [the appellant] needs assistance to wash, rinse, dry head to toe due to cognitive impairment. Reports if handed a cloth, [the appellant] would put it in her mouth. Quick wash in the evening to preserve skin integrity."

(Exhibit 5.)

MassHealth approved the time for daily bathing (30 X 1 X 7) but denied the request for the evening quick wash (10 X 1 X 7). The MassHealth representative testified that because the appellant has other services in the home from 10:00 a.m. to midnight, the PCA time was denied because it would be a duplication of services.

The appellant was represented by her guardian. He testified that the appellant is “completely incontinent,” and that she needs to shower “first thing in the morning,” and again in the morning. She also has chronic diarrhea and sometimes needs to be bathed two to three times per day due to her incontinence.

The MassHealth representative responded that the appellant was approved for 25 minutes per day for assistance with toileting, in addition to 30 minutes per day for bathing.

Grooming/Oral Care

The appellant’s PCA provider requested 3 X 2 X 7 for assistance with brushing her teeth. The provider made no specific notes describing the time requested. MassHealth modified the request for assistance with oral care to 3 X 1 X 7. The MassHealth representative testified that time generally is approved for oral care in the morning and then again in the evening. MassHealth approved the PCA time for morning oral care, but denied the evening assistance because there is another service in the home that will provide this service.

The appellant’s representative responded that the appellant needs assistance brushing her teeth and flossing.

Undressing

The appellant’s provider requested 10 X 1 X 7 for assistance with undressing. The provider described the assistance needed for undressing, but did not state when the undressing assistance is needed by the appellant.

MassHealth denied the time for assistance with undressing. The MassHealth representative testified that for most members, dressing time is approved in the morning to assist a member to get dressed for the day. Undressing time is normally approved in the evening-time in preparation for bedtime. In this case, the appellant’s request for dressing was approved as requested; however, the time requested for undressing would be provided by the other service in the home between 10:00 a.m. and midnight.

The appellant’s representative agreed with this modification.

Eating

The appellant's provider requested 5 X 3 X 7 for assistance with eating. The provider noted that the appellant requires physician assistance with eating and drinking. The family "Reports [the appellant] is easily distracted, will eat a little and then get up and walk around- needs physical prompts to go back to table. A to eat the last bites of food. Time is averaged."

MassHealth modified the request for assistance with eating to 5 X 1 X 7. The MassHealth representative testified that the time requested is for assistance with eating three times per day. It is usual for a member to eat breakfast in the morning, lunch around mid-day, and dinner in the evening. MassHealth's modified time provides assistance with eating in the morning time. The two other instances requested would be provided by the other service in the appellant's home, which is there from 10:00 a.m. to midnight.

The appellant's guardian that time is needed to assist the appellant with eating because she is "constantly up and down."

Toileting/Bladder Care

The appellant's provider requested 10 X 5 X 7 for assistance with toileting/bladder care. The provider noted that the appellant requires "physical assistance with toilet hygiene, physical assistance with clothing management, and physical assistance with changing absorbent product." She is "incontinent of bladder and bowel/wears briefs." The family reports that the appellant is unable to indicate when soiled. She requires physical guidance to bathroom, assistance adjusting clothing, removing soiled brief, hygiene, donning a new brief, adjusting clothing. Assistance to wash hands thoroughly. "Reports frequent overnight incontinence which leaks through clothing requiring clothing and linen changes."

MassHealth modified the request for assistance with toileting to 10 X 1 X 7. The provider testified that during the time from 6:00 a.m. to 10:00 a.m., there are two instances of approved PCA time for toileting, including 15 minutes per day for bowel care. Time was not approved for toileting assistance after 10:00 a.m., when assistance will be provided by the other service in the home.

The appellant's representative agreed with this modification.

Meal Preparation and Clean Up

The appellant's provider requested 25 X 1 X 5 for assistance with meal preparation and clean up. The provider noted that the appellant's "guardian works fulltime job, not always available to prepare meals for consumer, time for lunch and a snack during the work week."

MassHealth denied the time requested for assistance with meal preparation and clean up. The MassHealth representative testified that time would be approved for a morning meal, however, as requested, the assistance is for lunch and snack. The meal preparation will be provided by the other service in the home from 10:00 a.m. to midnight.

The appellant's representative testified the appellant requires 5 minutes per day for assistance in the morning with meal preparation and clean up. The appellant normally eats fruit, yogurt, cereal, or a bagel for breakfast.

The MassHealth representative testified that she would approve 5 minutes per day (5 X 1 X 5) for assistance with meal preparation and clean up.

Findings of Fact

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

1. MassHealth received a prior authorization (PA) request for PCA services on appellant's behalf from the PCA provider, [REDACTED] ("provider" or "PCM"), for the dates of service of 02/14/2025 to 02/13/2026 (Testimony; Exhibit 5).
2. In the PA request for PCA services (Exhibit 4), the provider requested 43:00 hours per week of PCA assistance (Testimony; Exhibit 4).
3. The appellant is an adult woman who has a primary diagnosis of traumatic brain injury (TBI) and she is non-verbal (Testimony; Exhibit 4).
4. On 12/24/2024, MassHealth modified the PCA request to 32:30 hours per week. Modifications were made to the request for PCA services that include modifications in the activities of daily living (ADL) tasks of bathing/quick wash, grooming/oral care, undressing, assistance with eating, and bladder care, and in the instrumental activities of daily living (IADL) tasks of meal preparation and clean-up (Testimony; Exhibits 1 and 4).
5. The appellant filed his timely request for a fair hearing with the Board of Hearings on 01/02/2025. A fair hearing was held on 02/03/2025 (Exhibits 2 and 3).
6. In addition to PCA services, the appellant has other MassHealth-provided household/personal care services in the home from 10:00 a.m. to midnight daily.
7. The appellant's PCM requested 30 minutes, 1 time per day, 7 days per week (30 X 1 X 7) for bathing and 10 X 1 X 7 for an evening quick wash. The provider noted that

“due to TBI, [the appellant] with cognitive deficits is unable to plan or initiate of sequence the tasks; does not follow directions. She requires assistance to turn on water/adjust temp, and to step in and out of shower for safety. Reports in shower [the appellant] needs assistance to wash, rinse, dry head to toe due to cognitive impairment. Reports if handed a cloth, [the appellant] would put it in her mouth. Quick wash in the evening to preserve skin integrity.”

(Exhibit 5).

8. MassHealth approved the time for daily bathing (30 X 1 X 7) but denied the request for the evening quick wash (10 X 1 X 7) (Testimony; Exhibit 5).
9. The appellant was approved for 25 minutes per day for assistance with toileting, in addition to 30 minutes per day for bathing (Testimony; Exhibit 5).
10. The appellant’s PCA provider requested 3 X 2 X 7 for assistance with brushing her teeth. The provider made no specific notes describing the time requested (Testimony; Exhibit 5).
11. MassHealth modified the request for assistance with oral care to 3 X 1 X 7 (Testimony; Exhibit 5).
12. MassHealth approved the PCA time for morning oral care, but denied the evening assistance because there is another service in the home that will provide this service (Testimony; Exhibits 1 and 4).
13. The appellant’s provider requested 10 X 1 X 7 for assistance with undressing. The provider described the assistance needed for undressing, but did not state when the undressing assistance is needed by the appellant (Testimony; Exhibit 4).
14. MassHealth denied the time for assistance with undressing (Testimony; Exhibit 5).
15. Time for assistance with dressing is generally approved in the morning to assist a member to get dressed for the day. Undressing time is normally approved in the evening-time in preparation for bedtime (Testimony).
16. The appellant’s request for dressing was approved as requested; however, the time requested for undressing will be provided by the other service in the home between 10:00 a.m. and midnight. (Testimony; Exhibits 1 and 5).
17. The appellant’s representative agreed with the time denied for undressing (none).
18. The appellant’s provider requested 5 X 3 X 7 for assistance with eating. The provider noted

that the appellant requires physician assistance with eating and drinking. The family "Reports [the appellant] is easily distracted, will eat a little and then get up and walk around- needs physical prompts to go back to table. A to eat the last bites of food. Time is averaged." (Testimony; Exhibit 5).

19. MassHealth modified the request for assistance with eating to 5 X 1 X 7 (Testimony; Exhibit 5).
20. It is usual for a member to eat breakfast in the morning, lunch around mid-day, and dinner in the evening. MassHealth's modified time provides assistance with eating in the morning time. The two other instances requested would be provided by the other service in the appellant's home, which is there from 10:00 a.m. to midnight. (Testimony; Exhibit 5).
21. The appellant's provider requested 10 X 5 X 7 for assistance with toileting/bladder care. The provider noted that the appellant requires "physical assistance with toilet hygiene, physical assistance with clothing management, and physical assistance with changing absorbent product." She is "incontinent of bladder and bowel/wears briefs." The family reports that the appellant is unable to indicate when soiled. She requires physical guidance to bathroom, assistance adjusting clothing, removing soiled brief, hygiene, donning a new brief, adjusting clothing. Assistance to wash hands thoroughly. "Reports frequent overnight incontinence which leaks through clothing requiring clothing and linen changes" (Testimony; Exhibit 5).
22. MassHealth modified the request for assistance with toileting to 10 X 1 X 7. The provider testified that during the time from 6:00 a.m. to 10:00 a.m., there are two instances of approved PCA time for toileting, including 15 minutes per day for bowel care. Time was not approved for toileting assistance after 10:00 a.m., when assistance will be proved by the other service in the home (Testimony; Exhibit 5).
23. The appellant's representative agreed with the time modified for toileting (10 X 1 X 7) (Testimony).
24. The appellant's provider requested 25 X 1 X 5 for assistance with meal preparation and clean up. The provider noted that the appellant's "guardian works fulltime job, not always available to prepare meals for consumer, time for lunch and a snack during the work week" (Testimony; Exhibit 5).
25. MassHealth denied the time requested for assistance with meal preparation and clean up (Testimony; Exhibit 5).
26. The appellant's representative testified the appellant requires 5 minutes per day for

assistance in the morning with meal preparation and clean up. The appellant normally eats fruit, yogurt, cereal, or a bagel for breakfast. (Testimony).

27. At the fair hearing, the MassHealth representative approved 5 X 1 X 5 for assistance with meal preparation and clean up (Testimony).

Analysis and Conclusions of Law

Regulations at 130 CMR 450.204 described medical necessity, as follows:

The MassHealth agency 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) 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 the MassHealth agency. Services that are less costly to the MassHealth agency include, but are not limited to, health care reasonably known by the provider, or identified by the MassHealth agency 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 (emphasis added).

Regulations at 130 CMR 422.412 describe non-covered PCA 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;
- (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.

(Emphasis added.)

To qualify for services under the PCA program, the member must meet the conditions defined at 130 CMR 422.403, below:

(C) 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/grooming;
 - (d) dressing or undressing;
 - (e) range-of-motion exercises;
 - (f) eating; and
 - (g) toileting
- (4) The MassHealth agency has determined that the PCA services are medically necessary and has granted a prior authorization for PCA services.

The type of PCA services available are described in 130 CMR 422.410 below:

- (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/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 the MassHealth agency as being instrumental to the health care of the member.

(C) Determining the Number of Hours of Physical Assistance. 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.

The appellant has the burden "to demonstrate the invalidity of the administrative determination."



MassHealth modified the appellant's request for PCA services in the activities of daily living (ADL) tasks of bathing/quick wash, grooming/oral care, undressing, assistance with eating, and bladder care, and in the instrumental activities of daily living (IADL) tasks of meal preparation and clean-up. At the fair hearing, the appellant's representative testified that he was satisfied that the time approved in the areas of undressing (none) and toileting/bladder care (10 X 1 X 7) would meet the appellant's needs. As a result, this portion of the appeal is dismissed.

Bathing/Quick Wash

The appellant's PCM requested 30 minutes, 1 time per day, 7 days per week (30 X 1 X 7) for bathing and 10 X 1 X 7 for an evening quick wash. The provider noted that

"due to TBI, [the appellant] with cognitive deficits is unable to plan or initiate of sequence the tasks; does not follow directions. She requires assistance to turn on water/adjust temp, and to step in and out of shower for safety. Reports in shower [the appellant] needs assistance to wash, rinse, dry head to toe due to cognitive impairment. Reports if handed a cloth, [the appellant] would put it in her mouth. Quick wash in the evening to preserve skin integrity."

MassHealth approved the time for daily bathing (30 X 1 X 7) but denied the request for the evening quick wash (10 X 1 X 7). The appellant was approved for 25 minutes per day for assistance with toileting, in addition to 30 minutes per day for bathing. MassHealth based its decision on the fact the appellant has other services in the home from 10:00 a.m. to midnight daily. A quick wash, as requested by the appellant's PCM, is done in the evening, while the other service providers are caring for the appellant. To approve PCA time for the same task as is included with the appellant's other provider is a duplication of services. Accordingly, MassHealth's modification in the area of bathing is supported by the regulations and the facts in the hearing record. This portion of the appeal is therefore denied.

Grooming/Oral Care

The appellant's PCA provider requested 3 X 2 X 7 for assistance with brushing her teeth. The provider made no specific notes describing the time requested. MassHealth modified the request for assistance with oral care to 3 X 1 X 7. MassHealth approved the PCA time for morning oral care, but denied the evening assistance because there is another service in the home that will provide this service. The appellant provided no information to show that the appellant brushes her teeth any more often than morning and evening. MassHealth's modification is based on the regulations and the facts in the hearing record. This portion of the appeal is therefore denied.

Eating

The appellant's provider requested 5 X 3 X 7 for assistance with eating. The provider noted that the appellant requires physician assistance with eating and drinking. The family "Reports [the appellant] is easily distracted, will eat a little and then get up and walk around- needs physical prompts to go back to table. A to eat the last bites of food. Time is averaged." MassHealth modified the request for assistance with eating to 5 X 1 X 7. The MassHealth representative testified that it is usual for a member to eat breakfast in the morning, lunch around mid-day, and dinner in the evening. MassHealth's modified time provides assistance with eating in the morning time. The two other instances requested would be provided by the other service in the appellant's home, which is there from 10:00 a.m. to midnight.

The appellant's representative testified that the appellant needs more time for assistance with eating because she is "constantly up and down." MassHealth's modification did not decrease the amount of time it takes to perform this task – that time was approved as requested. MassHealth modified the episodes per day. Instead of the requested assistance with eating three times a day, MassHealth approved one time per day, because the appellant has other services from 10:00 a.m. to midnight daily. The other services will provide assistance with eating during that time. MassHealth's modifications in the area of eating is supported by the regulations and the facts in the hearing record. This portion of the appeal is therefore denied.

Meal Preparation and Clean Up

The appellant's provider requested 25 X 1 X 5 for assistance with meal preparation and clean up. The provider noted that the appellant's "guardian works fulltime job, not always available to prepare meals for consumer, time for lunch and a snack during the work week." MassHealth denied the time requested for assistance with meal preparation and clean up because the time requested was for the time when the other services are in the home providing services to the appellant. The appellant's representative testified the appellant requires 5 minutes per day for assistance in the morning with meal preparation and clean up. The appellant normally eats fruit, yogurt, cereal, or a bagel for breakfast. After hearing the appellant representative's response, the MassHealth representative approved 5 X 1 X 5 for assistance with meal preparation and clean up. As the time approved is adequate to meet the appellant's needs, this portion of the appeal is dismissed.

For the foregoing reasons, this appeal is dismissed in part; denied in part.

Order for MassHealth

In the area of meal preparation and clean up, approve (5 X 1 X 5). In all other areas, none.

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, Division of Medical Assistance, at the address on the first page of this decision.

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.

Marc Tonaszuck
Hearing Officer
Board of Hearings

cc:

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