

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Approved in part; Denied in part	<b>Appeal Number:</b>	2500368
<b>Decision Date:</b>	4/7/2025	<b>Hearing Date:</b>	02/10/2025
<b>Hearing Officer:</b>	Kenneth Brodzinski		

**Appearance for Appellant:**



**Appearance for MassHealth:**

Donna Burns, RN



*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>	Approved in part; Denied in part	<b>Issue:</b>	Prior Authorization – PCA Services
<b>Decision Date:</b>	4/7/2025	<b>Hearing Date:</b>	02/10/2025
<b>MassHealth's Rep.:</b>	Donna Burns, RN	<b>Appellant's Rep.:</b>	
<b>Hearing Location:</b>	Quincy		

### Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapter 118E, Chapter 30A, and the rules and regulations promulgated there under.

### Jurisdiction

Through notice dated December 9, 2024, MassHealth modified a request for prior authorization for Personal Care Attendant (PCA) services by denying some of the requested time for service (Exhibit A). Appellant filed for this appeal in a timely manner on January 7, 2025, seeking approval for the denied time (see 130 CMR 610.015(B) and Exhibit A). Denial of prior authorization for assistance constitutes valid grounds for appeal (see 130 CMR 610.032).

### Action Taken by MassHealth

MassHealth modified a request for prior authorization for PCA services by denying some of the requested time for service.

### Issue

The appeal issue is whether MassHealth properly applied the controlling regulation(s) to accurate facts when it modified Appellant's request for prior authorization for PCA services by denying some of the requested time for service.

## Summary of Evidence

Both parties appeared by telephone. Prior to hearing, MassHealth submitted a packet of documentation including a copy of the subject PA request and nurse's evaluation (collectively, Exhibit B). Appellant made no filing other than her Fair Hearing Request (Exhibit A).

MassHealth was represented by a registered nurse and clinical appeals reviewer who testified that the PA request identified Appellant is a middle-aged male with primary diagnoses of TBI, loss of function in extremities, poor eyesight, expressive aphasia, dysphagia, and neurogenic bowel. The PA request was submitted to MassHealth on December 4, 2024, by [REDACTED] for 146 hours and 45 minutes/week, including 3 overnight hours. Appellant received 140.5 hours and 3 overnight hours last year. MassHealth modified the request on December 9, 2024, to 130.75 hours and 3 overnight hours for dates of service December 30, 2024 to December 29, 2025.

MassHealth modified time requested for the following 5 areas of assistance: repositioning, dressing, undressing, bladder care, and medical transportation. After exchanging testimony, **MassHealth agreed to restore time as requested for repositioning and medical transportation. Appellant agreed to time for dressing at 20 minutes, 2 times per day, seven days per week; 20 minutes, 1 time per day, seven days per week; and for the neck brace 6 minutes, 1 time per day, seven days per week. Appellant also agreed to time for undressing at 15 minutes, 1 time per day, seven days per week; and 3 minutes, 3 times per day, seven days per week.**

By the end of the hearing, the only modification that remained in dispute was time to assist with bladder care.

The MassHealth representative testified that for assistance with bladder care, Appellant sought 15 minutes, 12 times per day, seven days per week; and 20 minutes, 2 times per day, seven days per week. MassHealth approved the 20 minutes, 2 times per day, seven days per week, but reduced the frequency of the other segment to 15 minutes, 8 times per day, seven days per week. MassHealth cited reliance on regulations 130 CMR 422.410(A)(7) and 130 CMR 450.204(A)(1) and asserted that the requested time is longer than ordinarily required for someone with Appellant's physical needs. The MassHealth representative also noted that Appellant was approved for the same amount of time to assist with bladder care as last year and there was no documented change in his condition to warrant an increase.

There was considerable discussion between the MassHealth representative and Appellant's representative about how often Appellant needs to be assisted with bladder care. Ultimately, Appellant's representative acknowledged that the total time per day should be about 1.5 hours. In response, the MassHealth representative noted that the total amount approved for assistance with bladder care amounted to 1.6 hours per day. Despite this, Appellant's representative stated that she did not agree with the approved amount. Appellant's representative stated that she

could not state with specificity how many times per day Appellant needed assistance with bladder care because it varied from day to day. She explained that Appellant is constantly wanting to go to the bathroom because he thinks he must urinate when he actually does not need to.

## Findings of Fact

Based on a preponderance of the evidence, this record supports the following findings:

1. Appellant is a middle-aged male with primary diagnoses of TBI, loss of function in extremities, poor eyesight, expressive aphasia, dysphagia, and neurogenic bowel.
2. A PA request for renewed PCA services was submitted to MassHealth on December 4, 2024, by [REDACTED] for 146 hours and 45 minutes/week, including 3 overnight hours.
3. Last year, Appellant received assistance totaling 140.5 hours, and 3 overnight hours.
4. MassHealth modified the request on December 9, 2024, to 130.75 hours, and 3 overnight hours, for dates of service December 30, 2024 to December 29, 2025.
5. MassHealth modified time requested for the following 5 areas of assistance: repositioning, dressing, undressing, bladder care, and medical transportation.
6. After exchanging testimony, MassHealth agreed to restore time as requested for repositioning and medical transportation.
7. Appellant agreed to time for dressing at 20 minutes, 2 times per day, seven days per week; 20 minutes, 1 time per day, seven days per week; and for the neck brace 6 minutes, 1 time per day, seven days per week.
8. Appellant also agreed to time for undressing at 15 minutes, 1 time per day, seven days per week; and 3 minutes, 3 times per day, seven days per week.
9. By the end of the hearing, the only modification that remained in dispute was time to assist with bladder care.
10. Appellant sought 15 minutes, 12 times per day, seven days per week; and 20 minutes, 2 times per day, seven days per week for assistance with bladder care.
11. MassHealth approved the 20 minutes, 2 times per day, seven days per week, but reduced the frequency of the other segment to 15 minutes, 8 times per day, seven days per week.

12. Appellant was approved for the same amount of time to assist with bladder care as last year.
13. The subject PA request did not document any change in Appellant's condition to warrant an increase in time to assist with bladder care.
14. Appellant's representative acknowledged that the total time per day should be about 1.5 hours.

## **Analysis and Conclusions of Law**

The party appealing an administrative decision bears the burden of demonstrating the decision's invalidity (*Merisme v. Board of Appeals of Motor Vehicle Liability Policies and Bonds*, 27 Mass. App. Ct. 470, 474 (1989)). On the sole modification that remained in dispute by the end of the hearing, Appellant has not met his burden.

During the hearing, Appellant's representative acknowledged that appellant needs a total of about 1.5 hours for assistance with daily bladder care. MassHealth approved more than this. MassHealth approved 1.6 hours, the same amount that was approved last year. Appellant's representative could provide no basis to explain why the approved time was not sufficient other than to say that she could not say how many times Appellant needed to go to the bathroom to urinate because it varied day to day. Pursuant to regulation 130 CMR 422.411(A) MassHealth covers activity time performed by a PCA in providing assistance with ADLs and IADLs as described in 130 CMR 422.410. Covered services are those that are actually performed, not those of an anticipatory nature. Additionally, the PA request failed to document any salient change in Appellant's condition that would justify an increase in the frequency of his bladder care needs. For these reasons, there is no reasonable basis to conclude that the request in frequency is medically necessary (130 CMR 450.204(A)).

The appeal is approved as to the modifications that were agreed to and restored at the time of hearing and denied as to the modification made to time to assist with bladder care.

## Order for MassHealth

Restore times agreed to at hearing.

## Implementation of this Decision

If this decision is not implemented within 30 days after the date of this decision, you should contact Optum. If you experience any 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.

## 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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Kenneth Brodzinski  
Hearing Officer  
Board of Hearings

cc:

[REDACTED]

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