

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Dismissed in part; Denied in part	<b>Appeal Number:</b>	2501202
<b>Decision Date:</b>	3/28/2025	<b>Hearing Date:</b>	02/20/2025
<b>Hearing Officer:</b>	Radha Tilva		

**Appearance for Appellant:**  
Pro se, in person

**Appearance for MassHealth:**  
Robin Brown, Optum Rep., OT  
Sally Dos Santos, observing



*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>	Dismissed in part; Denied in part	<b>Issue:</b>	PA – PCA modification
<b>Decision Date:</b>	3/28/2025	<b>Hearing Date:</b>	02/20/2025
<b>MassHealth's Rep.:</b>	Robin Brown	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Tewksbury MEC	<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 January 7, 2025, MassHealth modified appellant's prior authorization request for personal care attendant (PCA) services from 13 hours and 30 minutes per week to 10 hours and 45 minutes per week (Exhibit 1). The appellant filed this appeal in a timely manner on January 20, 2025 (see 130 CMR 610.015(B) and Exhibit 2). Denial or modification of assistance is valid grounds for appeal (see 130 CMR 610.032).

### Action Taken by MassHealth

MassHealth modified appellant's prior authorization request for PCA services.

### Issue

The appeal issue is whether MassHealth was correct in modifying appellant's prior authorization request for PCA services.

### Summary of Evidence

The appellant appeared in person at hearing. The MassHealth representative who appeared at hearing telephonically testified that appellant is a [REDACTED]-year-old female with a primary diagnosis of brain malformation, with recent surgery in October 2022, chronic migraines, double mastectomy, cholangitis, neuropathy, ADHD and PTSD. The appellant can drive, but has difficulty reaching, lifting greater than 10 pounds, and cannot bend, lift, or twist. She experiences loss of sensation of her hands and feet and bouts of temporary paralysis. The MassHealth representative testified that she uses a cane, has a bed rail and uses a shower chair. The appellant was not observed at hearing using a cane. A PCA initial evaluation was submitted by [REDACTED] (PCM agency) on December 31, 2024 seeking 13 hours and 30 minutes per week of PCA hours. This request was modified on January 7, 2025 to 10 hours and 45 minutes for dates of service January 6, 2025 through January 6, 2026. There were a total of 6 modifications at hearing discussed. The appellant agreed to the modifications for shaving, undressing, laundry and housekeeping. The two remaining modifications at issue were bathing and grooming.

PCA assistance with bathing was requested in two separate categories. The first was for regular bathing, which was approved in full at 20 minutes daily, 7 days a week. The second was a request for washing hair at 5 minutes, once a day, 7 days a week (Exhibit 5, p. 20). The MassHealth representative testified that the reason why washing hair was not approved was because when combined with the time for showering, it was longer than ordinarily required. The nurse reviewer explained that the evaluation stated she was a minimum assist, which means that she can do 75% of the work. The MassHealth representative stated that the PCM agency wrote that appellant only needed assistance getting in and out of bed, so MassHealth did not understand why she needed hands on help the whole time while bathing. In addition, the MassHealth representative testified that the appellant has a bench in the shower and that MassHealth covers shower chairs as well, which is a less costly alternative. The MassHealth representative also suggested a handheld shower and testified that the equipment appellant has is preventing her from being able to do things she is capable of doing.

The appellant testified that she cannot reach over head and finds that it is difficult for her to wash her hair. She further stated that it takes about 30 minutes total to shower and that she needs help getting into the shower as she has balance issues with her arms and legs. The appellant explained that her shower bench does not have a back and that she has tried a shower chair in the past. However, the bench allows her to participate more in showering as it allows her to be closer to the water source.

The next modification was for PCA assistance with grooming which was requested at 5 minutes, once a day, 7 days a week. MassHealth modified the requested PCA assistance time in this category to 2 minutes, once a day, 7 days a week. The MassHealth representative explained that the PCM agency wrote that the appellant was a minimal assist for grooming, and that the time requested is longer than ordinarily required for someone with the appellant's needs. The MassHealth representative did not understand why appellant could not get dressed and then get

assistance blow drying partially air-dried hair. The appellant stated that she wants her hair dried completely and that waiting to blow dry might cause her to slip on the floor. The appellant testified that her hair cannot be blow dried in 2 minutes and that though she helps with combing, the PCA blow dries for her. The appellant testified that she has paralysis in her hands and arms and cannot reach overhead, per her doctor, which prevents her from participating. Moreover, the appellant explained that she has a lot of hair.

At hearing the appellant testified that she has a home health aide who provides her approximately 8 hours of help per week, but the home health aide does not assist with grooming or bathing.

## Findings of Fact

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

1. Appellant is a [REDACTED]-year-old female with a primary diagnosis of brain malformation, with recent surgery in October 2022, chronic migraines, double mastectomy, cholangitis, neuropathy, ADHD and PTSD.
2. The appellant can drive, but has difficulty reaching, lifting greater than 10 pounds, and cannot bend, lift, or twist. She experiences loss of sensation of her hands and feet, and bouts of temporary paralysis.
3. A PCA initial evaluation was submitted by [REDACTED] (PCM agency) on December 31, 2024, seeking 13 hours and 30 minutes per week of PCA assistance hours.
4. This request was modified by notice dated January 7, 2025 to 10 hours and 45 minutes, for dates of service January 6, 2025 through January 6, 2026.
5. There were a total of 6 modifications discussed at hearing; appellant agreed to the MassHealth modifications for shaving, undressing, laundry and housekeeping.
6. The appellant was approved for 20 minutes of PCA assistance daily for bathing, but denied the 5 minutes once a day, 7 days a week she requested for washing hair.
  - a. The appellant needs assistance getting into and out of the shower and with washing her hair.
  - b. The appellant has a shower bench.
  - c. The appellant can participate in the showering process with the use of her shower bench.

7. Grooming (drying hair) was requested at 5 minutes daily, once a day, 7 days a week and was modified to 2 minutes, once a day, 7 days a week, because the time requested is longer than ordinarily required for someone with the appellant's needs.

## Analysis and Conclusions of Law

Prior authorization for PCA services determines the medical necessity of the authorized service. (130 CMR 422.416.) The regulations for MassHealth 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. (130 CMR 450.204(A).) "Medically necessary services must be of a quality that meets professionally recognized standards of health care, and must be substantiated by records including evidence of such medical necessity and quality." (130 CMR 450.204(B).) A provider must make those records, including medical records, available to MassHealth upon request. (130 CMR 450.204(B)); 42 U.S.C. § 1396a(a)(30), 42 CFR §§ 440.230, 440.260.)

MassHealth generally covers 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).) Members are responsible for hiring and training their own PCAs. (130 CMR 422.420(A)(6); see also 130 CMR 422.422(A) (PCM agency must confirm member is able to employ and direct PCAs, or else have a surrogate).)

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 “down time” 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).)

The appellant agreed to the modifications made for shaving, undressing, laundry and housekeeping. The appeal is DISMISSED with regards to these modifications (130 CMR 610.035; 610.051).

With respect to bathing, the MassHealth representative's testimony was credible. Twenty minutes of hands-on time to assist appellant into and out of the shower and help her wash her hair is sufficient. Appellant testified that the whole process of showering takes about 30 minutes. The PCA is only expected to be paid for hands on time and even with daily hair washing, 20 minutes of hands-on time to both wash hair and assist in and out of shower is more than adequate. Thus, the appeal as to bathing is DENIED.

Similarly, MassHealth's modification as to grooming for 2 minutes, once a day, 7 days a week also stands. The MassHealth representative's testimony was persuasive. Although the appellant washes her hair daily, 2 minutes is sufficient time for the PCA to assist with blow drying her hair, especially if it is partially air dried. Thus, the appeal as to grooming 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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Radha Tilva  
Hearing Officer  
Board of Hearings

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