

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Dismissed in part; Denied in part; Approved in part	Appeal Number:	2501650
Decision Date:	04/24/2025	Hearing Date:	02/25/2025
Hearing Officer:	Thomas Doyle	Record Open to:	N/A

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Kelly Rayen, 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

Appeal Decision:	Dismissed in part; Denied in part; Approved in part	Issue:	Prior Authorization – PCA Services
Decision Date:	04/25/2025	Hearing Date:	02/25/2025
MassHealth's Rep.:	Kelly Rayen, RN	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 January 8, 2025, MassHealth modified the appellant's request for prior authorization (PA) for Personal Care Attendant (PCA) services. (Ex. 1). Appellant filed this appeal in a timely manner on January 27, 2027. (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 PA request for PCA services.

Issue

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

Summary of Evidence

The MassHealth representative, a registered nurse, (RN), appeared at hearing telephonically. She testified that appellant is in her mid-fifties and has a primary diagnosis of Fibromyalgia, with 85% loss of vision in both eyes, left side neuropathy and frequent incontinence of urine. (Testimony; Ex. 4 p. 8-9). She stated appellant lives with her cousin and cousin's child. (Testimony; Ex. 4, p. 8, 11). On December 21, 2024, appellant's provider, [REDACTED], submitted a PA request for PCA services. The provider requested PCA services in the amount of 31 hours per week for the prior authorization period of January 8, 2025, to January 7, 2026. On January 8, 2025, MassHealth modified the request in several respects and approved 15 hours per week. The appellant filed a timely appeal on January 27, 2025. (Testimony; Ex. 2).

The MassHealth representative testified that there were 6 areas of modification to the PA request. At hearing, 2 of these modifications were resolved as follows:

Housekeeping: Appellant requested PCA assistance with Housekeeping in the amount of 45 minutes a week. (Ex. 4, p. 33). MassHealth modified the request to 30 minutes a week. (Testimony). After testimony from appellant and discussion between the parties, appellant agreed to the 30 minutes a week as modified by MassHealth.

Medical Transportation: Appellant requested PCA assistance with Medical Transportation in the amount of 20 minutes a week. (Ex. 4, p. 34). MassHealth modified the request to 16 minutes a week. (Testimony). After testimony by appellant and discussion between the parties, the parties agreed on 19 minutes a week. (Testimony).

The 4 areas of modification that remain in dispute are Mobility, Grooming, hair care, Assistance with Medications and Laundry. 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 this task in the amount of 1 minute an episode, 2 episodes a day, 7 days a week. (Testimony; Ex. 4, p. 15). MassHealth modified the request to 0 time because appellant's clinical record indicates she has sufficient functional ability to perform this task without physical assistance and there are other less costly options available to meet appellant's needs.¹ The RN stated there was no documentation showing appellant had participated in occupational or physical therapy. The RN also testified that the Occupational

¹ The record shows appellant requires a minimum level of assistance with Mobility. (Ex. 4, p. 7). The Time-for-Tasks Guidelines for the MassHealth PCA Program are as follows: Independent, member requires 0% physical assistance to complete task; Minimal Assist, member requires up to 25% physical assistance to complete task; Moderate Assist, member performed part of activity but requires up to 50% physical assistance to complete task; Maximum Assist, member involved and requires up to 75% physical assistance to complete task and Total Dependence, member requires full performance (100%) of activity by another.

Therapist (OT) recommends appellant obtain a wheeled walker and OT and PT would teach appellant how to use the walker, which would foster independence. (Testimony; Ex. 4, p. 8).

Appellant stated she is “suppose to be going to PT, was going to PT prior to stroke...have not returned because of other medical issues happening.” She stated going to PT has not been addressed yet until she has a clear understanding about the nature of her heart surgery. (Testimony).

In response, the RN stated MassHealth needed documentation to support that appellant has already had OT and PT and obtained a wheeled walker to determine if this is a chronic issue with need for physical assistance or is it a temporary assist. The RN testified appellant was observed to be able to ambulate within her home using furniture and walls, but a safer option is a wheeled walker, which the OT recommends. (Testimony; Ex. 4, p. 9).

Responding to the RN’s testimony, appellant said this was deplorable. She stated she is able to adjust and navigate inside her home because she can hold on to the walls. She testified she does not have a walker. She stated when she leaves her home to go shopping, she has to hold on to the shopping carriage. (Testimony).

Finishing her testimony regarding Mobility, the RN noted appellant is independent for all Toileting tasks, including transfers on and off the toilet. (Testimony; Ex. 4, p. 7, 24). The record indicates appellant did not request any time for Toileting tasks and can manage stairs. (Ex. 4, p. 7, 24).

Grooming: (combing hair) Appellant requested PCA assistance with this task in the amount of 5 minutes an episode, 1 episodes a day, 7 days a week. (Testimony; Ex. 4, p. 20). MassHealth modified the request to 2 minutes an episode, 1 episode 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 RN stated appellant was assessed as a moderate assist² and there was no documentation provided to support 5 minutes or to show why 2 minutes was insufficient. (Testimony).

Appellant initially stated she had no comment to this modification but then stated she is a former hairdresser and she has a certain look she prefers to present herself to the world but now that she is “trapped in a house all the time, it doesn’t matter what I look like, I can just throw my hair in a ponytail, it doesn’t matter.” When asked if she agreed with the modification, she first said it does not matter but then stated she disagrees with the modification. (Testimony).

Assistance with Medications: Appellant requested PCA assistance with this task in the amount of 3 minutes an episode, 2 episodes a day, 7 days a week. (Testimony; Ex. 4, p. 26). MassHealth

² The record indicates appellant’s level of assist for grooming is minimal. (Ex. 4, p. 7). It is unclear if the RN misspoke.

modified the request to 1 minute an episode, 2 episodes a day, 7 days a week on the basis the time requested is longer than ordinarily required for someone with appellant's physical needs. (Testimony). The RN noted time to assist appellant in physically assisting her to prefill appellant's med box was approved. The RN testified this task is for the PCA to take the medication out of the pill box and hand it to appellant with a glass of water. (Testimony; Ex. 4, p. 26).

Appellant stated medications are 3 times a day.³ She stated she can feel the shape of the medications and sometimes can identify them by color but three of the medications are the same size and white in color. She stated if she happens to drop one, she does not know which pill she may have dropped. She requested if any time was taken for this task, it be restored. (Testimony).

Laundry: Appellant requested 90 minutes a week to do laundry. (Ex. 4, p. 32). MassHealth modified this task to 60 minutes a week. (Testimony). The RN stated the time requested is longer than ordinarily required for someone with the appellant's physical needs and documentation states the laundry is done outside the home. The RN stated there was no documentation to support excessive amounts of laundry and noted this task is for appellant's personal laundry and not the household. (Testimony).

Appellant stated she has urinary incontinence and prefers to have her laundry done more than once a week because even after trying to rinse out the urine, if left for a week until the next time laundry is done, there is still an odor of urine, and she thinks this is a little obnoxious and she also believes it is a little unhealthy. (Testimony). The RN asked appellant how many loads of laundry she generates herself per week. Appellant said at least 2 if not 3 loads per week. Appellant stated the laundry is done outside the home and stated the laundromat they use is about 15 minutes away. (Testimony; Ex. 4, p. 32). The record shows appellant requires a moderate level of assist with Laundry. (Ex. 4, p. 7).

Findings of Fact

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

1. Appellant is in her mid-fifties and has a primary diagnosis of Fibromyalgia, with 85% loss of vision in both eyes, left side neuropathy and frequent incontinence of urine. (Testimony; Ex. 4 p. 8-9).
2. On December 21, 2024, appellant's provider, Greater Springfield Senior Services, submitted a PA request for PCA services. The provider requested PCA services in the amount of 31 hours per week for the prior authorization period of January 8, 2025, to January 7, 2026. On January 8, 2025, MassHealth modified the request in several respects and approved 15 hours per week.

³ The record indicates appellant's PCM agency only requested 2 times a day. (Ex. 4, p. 26).

3. Appellant filed a timely appeal on January 27, 2025. (Testimony; Ex. 2).
4. At hearing, the parties resolved 2 of the modifications (related to Housekeeping and Medical Transportation). (Testimony). The modifications for Mobility, Grooming, Assistance with Medications and Laundry remained in dispute. (Testimony).
5. Appellant requested PCA assistance with Mobility in the amount of 1 minute an episode, 2 episodes a day, 7 days a week. (Testimony; Ex. 4, p. 15). MassHealth modified the request to 0 time. (Testimony).
6. Appellant requested PCA assistance with Grooming, hair brushing, in the amount of 5 minutes an episode, 1 episodes a day, 7 days a week. (Testimony; Ex. 4, p. 20). MassHealth modified the request to 2 minutes an episode, 1 episode a day, 7 days a week. (Testimony).
7. Appellant requested PCA assistance with Assistance with Medications in the amount of 3 minutes an episode, 2 episodes a day, 7 days a week. (Testimony; Ex. 4, p. 26). MassHealth modified the request to 1 minute an episode, 2 episodes a day, 7 days a week. (Testimony).
8. Appellant requested 90 minutes a week to do laundry. (Ex. 4, p. 32). MassHealth modified this task to 60 minutes a week. (Testimony).

Analysis and Conclusions of Law

422.416: PCA Program: Prior Authorization for PCA Services

(A) Initial Request for Prior Authorization for PCA Services. With the exception of 130 CMR 422.416(D), PCM agencies must submit the initial request for prior authorization for PCA services to the MassHealth agency within 45 calendar days of the date of the initial inquiry about a member to the PCM agency for PCA services. Requests for prior authorization for PCA services must include:

- (1) the completed MassHealth Application for PCA Services and MassHealth Evaluation for PCA Services;
- (2) the completed MassHealth Prior Authorization Request form;
- (3) any documentation that supports the member's need for PCA services. This documentation must:
 - (a) identify a permanent or chronic disability that impairs the member's ability to perform ADLs and IADLs without physical assistance; and
 - (b) state that the member requires physical assistance with two or more ADLs as defined in 130 CMR 422.410(A).
- (4) the completed and signed assessment of the member's ability to manage the PCA program independently.

PCA services requested must meet medical necessity criteria as defined at 130 CMR 450.204, below:

(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.

(B) 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. A provider must make those records, including medical records, available to the MassHealth agency upon request. (See 42 U.S.C. 1396a(a)(30) and 42 CFR 440.230 and 440.260.)

In addition to being medically necessary as defined above, time requested for PCA services must comport with the following guidelines at 130 CMR 422.410:

(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. (**Emphasis added**).

(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 PCA services; and
 - (c) other special needs approved by the MassHealth agency as being instrumental to the health care of the member. (**Emphasis added**).

422.403: Eligible Members

...

(C) MassHealth covers PCA 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 PCA services are authorized for the member in accordance with 130 CMR 422.416.
- (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 PCM agency, requires physical assistance **with two or more of the ADLs as defined in 130 CMR 422.410(A)**. (**Emphasis added**).
- (4) The MassHealth agency has determined that the PCA services are medically necessary.

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, Grooming, hair care, Assistance with Medications and Laundry 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." Andrews v. Division of Medical Assistance, 68 Mass. App. Ct. 228 (2007).

Mobility: Appellant requested PCA assistance with this task in the amount of 1 minute an episode, 2 episodes a day, 7 days a week. MassHealth modified the request to 0 time because appellant's clinical record indicates she has sufficient functional ability to perform this task without physical assistance and there are other less costly options available to meet appellant's needs. The RN stated there was no documentation showing appellant had participated in occupational or physical

therapy. The RN also testified that the Occupational Therapist (OT) recommends appellant obtain a wheeled walker and OT and PT would teach appellant how to use the walker, which would foster independence. Appellant was observed ambulating in her home using furniture and walls. I credit the testimony the RN. The record shows appellant is a minima level of assist with mobility. It is recommended that appellant obtain a wheeled walker to foster her independence, and that wheeled walker would be a less costly to MassHealth. The goal of fostering independence coupled with a wheeled walker as a less costly expense to MassHealth indicates to me MassHealth's denial of time for this task is reasonable. This part of the appeal is denied.

Grooming: Appellant requested PCA assistance with hair combing in the amount of 5 minutes an episode, 1 episodes a day, 7 days a week. MassHealth modified the request to 2 minutes an episode, 1 episode 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 RN stated appellant was assessed as a moderate assist, however the record shows appellant is a minimal level of assist for Grooming. I believe the RN misspoke and conclude the record is correct that appellant is a minimal level of assist for Grooming. The RN stated there was no documentation provided to support 5 minutes or to show why 2 minutes was insufficient. Appellant offered no evidence to show why MassHealth's modification of this task was incorrect. Therefore, she has not met her burden by preponderance of the evidence and this part of the appeal is denied.

Assistance with Medications: Appellant requested PCA assistance with this task in the amount of 3 minutes an episode, 2 episodes a day, 7 days a week. MassHealth modified the request to 1 minute an episode, 2 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 RN noted time to assist appellant in physically assisting her to prefill appellant's med box was approved. The RN testified this task is for the PCA to take the medication out of the pill box and hand it to appellant with a glass of water. She argued this should not take more than one minute. Appellant testified that she could feel the shape of the pills but three of the pills are the same shape and color and if she drops one or more, she will not know where they went or which pill is missing. Appellant's argument is purely speculative, and I find credible the RN's testimony this task should not take more than a minute to hand appellant a pill with a glass of water. This part of the appeal is denied.

Laundry: Appellant requested 90 minutes a week to do laundry. MassHealth modified this task to 60 minutes a week. The RN stated the time requested is longer than ordinarily required for someone with the appellant's physical needs and documentation states the laundry is done outside the home. The RN stated there was no documentation to support excessive amounts of laundry and noted this task is for appellant's personal laundry and not the household. Appellant stated she has urinary incontinence and prefers to have her laundry done more than once a week because even after trying to rinse out the urine from the clothes, if left for a week until the next time laundry is done, there is still an odor of urine, and she thinks this is a little obnoxious and she also believes it is a little unhealthy. Appellant testified she generates at least 2 if not 3 loads per week. Appellant stated the laundry is done outside the home and stated the laundromat they use

is about 15 minutes away. The record shows appellant requires a moderate level of assist with Laundry. (Ex. 4, p. 7). I find appellant has met her burden in requesting 90 minutes a week for Laundry. The laundry is done out of the home. The time for task guidelines for the PCA program indicates 90 minutes for laundry done out of the home. Also supporting the 90 minutes for this task, appellant suffers from Fibromyalgia, 85% loss of vision in both eyes, left side neuropathy and frequent incontinence of urine, along with the fact the laundromat is 15 minutes away. I find appellant has met her burden and shown medical necessity for 90 minutes a week for Laundry. This part of the appeal is approved.

For the reasons set forth above, appellant has not demonstrated the medical necessity of the full PCA time requested for Mobility, Grooming or Assistance with Medications. Appellant has shown medical necessity for her requested amount of time for Laundry. This appeal is denied in part (as to Mobility, Grooming and Assistance with Medications) and dismissed in part (as to the issues resolved at hearing) and approved in part regarding requested time for Laundry.

Order for MassHealth

Implement the changes agreed at the hearing by the parties regarding Housekeeping and Medical Transportation.

Implement 90 minutes a week for Laundry.

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.

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, at the address on the first page of this decision.

Thomas Doyle
Hearing Officer
Board of Hearings

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