

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



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| Appeal Decision: | Dismissed in Part: Denied in Part | Appeal Number: | 2501712 |
| Decision Date: | 05/01/2025 | Hearing Date: | 03/13/2025 |
| Hearing Officer: | Marc Tonaszuck | | |

Appearance for Appellant:




Appearance for MassHealth:

Kelly Rayen, 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

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| Appeal Decision: | Dismissed in Part; Denied in Part | Issue: | Prior Authorization – Personal Care Attendant (PCA) Services |
| Decision Date: | 05/01/2025 | Hearing Date: | 03/13/2025 |
| MassHealth's Rep.: | Kelly Rayen, RN, Optum | Appellant's Rep.: |  |
| Hearing Location: | Quincy Harbor South | Aid Pending: | Yes |

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 01/10/2025, MassHealth modified the appellant's prior authorization request for personal care attendant (PCA) services from a requested 82 hours and 00 minutes (82:00) hours per week to 71:15 hours per week for the dates of service from 02/25/2025 to 02/24/2026 (130 CMR 422.410; Exhibit 1). On 01/27/2025 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 valid 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 (1-4).

The MassHealth representative testified that she is a 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 his PCA agency (PCM), Greater Springfield Senior Services, Inc. ("GSSSI" or "provider"), for the dates of service of 02/25/2025 to 02/24/2026. In the PA request for PCA services (Exhibit 4), the provider requested 82:00 hours per week of PCA assistance. The appellant is an adult male, in his [REDACTED] who lives independently in the community. He has a primary diagnosis of vascular dementia, a history of TIAs, cataracts, obsessive compulsive disorder, non-insulin dependent diabetes, history of torn rotator cuff, frequent urinary tract infection, many hospital visits the past six months for UTIs, infection of scrotum, pneumonia, foley catheter, urinary retention. In addition, he is bedbound (Exhibit 4).

The Optum representative testified that on 01/10/2025 MassHealth modified the PCA request to 71:15 hours per week. Modifications were made to the PA request in the activities of daily living (ADL) tasks of repositioning, bowel care, and in the instrumental activities of daily living (IADL) task of housekeeping.

Repositioning

The appellant's PCM requested 10 minutes, 6 times per day, 7 days per week (10 X 6 X 7) for assistance with repositioning. MassHealth modified the request for assistance with mobility to 5 X 6 X 7; however, after hearing the appellant's testimony, MassHealth restored 8 X 6 X 7 for assistance with repositioning. The appellant's representative agreed that the modified time would meet the appellant's needs for assistance with this task.

Bowel Care

The appellant's PCA provider requested 30 X 6 X 7 for assistance with bowel care. The provider noted that the appellant "is fully incontinent of bowel and bladder; and has foley catheter due to dementia. Foley catheter is emptied 3 times a day. Total assist to change soiled briefs, for incontinence care and clothing management. Consumer is bedbound and does not get out of bed to toilet. Skin is intact. Surrogate reports consumer has bowel movements multiple times per day - 6-8 times per day."

MassHealth modified the request for assistance with bowel care to 20 X 6 X 7. The MassHealth representative testified that the requested time is longer than ordinarily necessary for a person with the appellant's needs. She explained that because the appellant is bedbound, there is no transfer necessary. The time is for the PCA to change a soiled diaper and briefs and to apply barrier cream.

The appellant's representative testified that the appellant frequently has diarrhea due to the foods he may eat. The representative stated that "once it starts, it doesn't stop." She also testified that 30 minutes are necessary because the PCA must take care to prevent cross contamination in the appellant's catheter, which can cause a UTI.

The MassHealth representative testified that the appellant has been approved for 42 instances of bowel care each week.

Housekeeping

The appellant's provider requested 60 minutes per week for assistance with housekeeping. The provider noted that the appellant "requires assistance with all IADL tasks due to limitations with dementia/non-ambulatory status. [His] wife is bedbound and not able to assist with any IADL tasks."

MassHealth initially modified the request for assistance with housekeeping to 45 minutes per week; however, after hearing testimony from the appellant's surrogate, MassHealth restored all time requested for this task (60 minutes per week).

Findings of Fact

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

1. On 01/09/2025, MassHealth received a prior authorization (PA) request for PCA services on appellant's behalf from the PCA provider, Greater Springfield Senior Services, Inc. ("GSSSI" or "provider"), for the dates of service of 02/25/2025 to 02/24/2026 (Testimony; Exhibit 4).
2. In the PA request for PCA services (Exhibit 4), the provider requested 82:00 hours per week of PCA assistance (Testimony; Exhibit 4).
3. The appellant is an adult man in his [REDACTED] who lives independently in the community. He has a primary diagnosis of vascular dementia, a history of TIAs, cataracts, obsessive compulsive disorder, non-insulin dependent diabetes, history of torn rotator cuff, frequent urinary tract infection, many hospital visits the past six months for UTIs, infection of scrotum, pneumonia, foley catheter, urinary retention. In addition, he is

bedbound (Testimony; Exhibit 4).

4. On 01/10/2025, MassHealth modified the PCA request to 71:15 hours per week. Modifications were made in the activities of daily living (ADL) tasks of repositioning and bowel care, and in the instrumental activities of daily living (IADL) tasks of housekeeping (Testimony; Exhibits 1 and 4).
5. The appellant filed his timely request for a fair hearing with the Board of Hearings on 01/27/2025. A fair hearing was held on 03/13/2025 (Exhibits 2 and 3).
6. The appellant's PCM requested 10 minutes, 6 times per day, 7 days per week (10 X 6 X 7) for assistance with repositioning. (Exhibit 4).
7. MassHealth modified the request for assistance with mobility to 5 X 6 X 7; however, after hearing the appellant's testimony, MassHealth increased the modified time to 8 X 6 X 7 (Testimony; Exhibits 1 and 4).
8. The appellant's representative agreed that 8 X 6 X 7 would meet the appellant's needs for assistance with repositioning (Testimony).
9. The appellant's PCM requested 30 X 6 X 7 for assistance with bowel care (Testimony; Exhibit 4).
10. The provider noted that the appellant "is fully incontinent of bowel and bladder; and has foley catheter due to dementia. Foley catheter is emptied 3 times a day. Total assist to change soiled briefs, for incontinence care and clothing management. Consumer is bedbound and does not get out of bed to toilet. Skin is intact. Surrogate reports consumer has bowel movements multiple times per day - 6-8 times per day."
11. The appellant's PCM requested 60 minutes per week for assistance with housekeeping. The provider noted the appellant "requires assistance with all IADL tasks due to limitations with dementia/non-ambulatory status. [His] wife is bedbound and not able to assist with any IADL tasks" (Testimony; Exhibit 4).
12. MassHealth initially modified the request for assistance with housekeeping to 45 minutes per week; however, after hearing testimony from the appellant's surrogate, MassHealth restored all time requested for assistance with housekeeping (60 minutes per week) (Testimony; Exhibits 1 and 4).

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.

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 tubefeeding 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." See *Andrews vs. Division of Medical Assistance*, 68 Mass. App. Ct. 228. Moreover, the burden is on the appealing party to demonstrate the invalidity of the administrative determination. See *Fisch v. Board of Registration in Med.*, 437 Mass. 128, 131 (2002); *Faith Assembly of God of S. Dennis & Hyannis, Inc. v. State Bldg. Code Commn.*, 11 Mass. App. Ct. 333, 334 (1981); *Haverhill Mun. Hosp. v. Commissioner of the Div. of Med. Assistance*, 45 Mass. App. Ct. 386, 390 (1998).

MassHealth modified the appellant's request for PCA services in the activities of daily living (ADL) tasks of repositioning and bowel care, and in the instrumental activity of daily living (IADL) task of housekeeping. At the fair hearing, after hearing the testimony from the appellant, MassHealth restored all time as requested in the area of housekeeping (60 minutes per week). This portion of the appeal is therefore dismissed, as MassHealth has adjusted its decision to approve all time requested for this task.

In the area of repositioning, MassHealth initially modified the request for time (10 X 6 X 7) to 5 X 6 X 7. At the fair hearing, the MassHealth representative agreed to increase the modified time to 8 X 6 X 7 for assistance with repositioning. The appellant's surrogate agreed that the modified

time would meet the appellant's requirements for assistance with repositioning. Accordingly, this portion of the appeal is therefore denied.

Bowel Care

The appellant's PCM requested 30 minutes, 6 times per day, 7 days per week for assistance with bowel care. The provider noted that the appellant "is fully incontinent of bowel and bladder; and has foley catheter due to dementia. Foley catheter is emptied 3 times a day. Total assist to change soiled briefs, for incontinence care and clothing management. Consumer is bedbound and does not get out of bed to toilet. Skin is intact. Surrogate reports consumer has bowel movements multiple times per day - 6-8 times per day."

MassHealth modified the time requested for assistance with bowel care to 20 X 6 X 7. MassHealth based its decision upon the provider note that states the appellant is bedbound, and therefore no transfers are necessary to complete this task. Also, the PCA is required to change the appellant's diaper and briefs, clean the appellant's diaper area and apply barrier cream. The appellant's representative testified credibly that the appellant frequently has diarrhea and it is necessary for the PCA to take care when cleaning the appellant so that his feces do not come into contact with his catheter.

Although the appellant's representative testified that the PCA requires 30 minutes to assist the appellant with bowel care, there is no evidence of why it takes 30 minutes to complete the task, even if the time is included to ensure that the foley catheter is not compromised. Accordingly, the appellant's representative has not met her burden of showing MassHealth's modified time is not adequate to meet the appellant's needs for assistance with bowel care. This portion of the appeal is therefore denied.

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

Order for MassHealth

Release aid pending. Restore all time requested in the area of housekeeping (60 minutes per week). Restore 8 X 6 X 7 for assistance with repositioning. In the area of bowl care, 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

[REDACTED]

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