

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Approved in part; Dismissed in part; Denied in part	Appeal Number:	2501858
Decision Date:	4/24/2025	Hearing Date:	03/03/2025
Hearing Officer:	Emily Sabo		

Appearances for Appellant:



Appearance for MassHealth:

Donna Burns, R.N., 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:	Approved in part; Dismissed in part; Denied in part	Issue:	Prior Authorization; Personal Care Attendant (PCA) Services
Decision Date:	4/24/2025	Hearing Date:	03/03/2025
MassHealth's Rep.:	Donna Burns, R.N.	Appellant's Rep.:	Pro se with daughter
Hearing Location:	Quincy Harbor South (Telephone)	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

By notice dated January 6, 2025, MassHealth modified the Appellant's request for prior authorization of personal care attendant (PCA) services from 95 hours, 45 minutes per week to 82 hours, 45 minutes per week. 130 CMR 422.410(C)(1), 130 CMR 422.412(F), and Exhibit 1. The Appellant filed this timely appeal on January 30, 2025. Exhibit 2 and 130 CMR 610.015(B). Denial of prior authorization is a valid basis for appeal. 130 CMR 422.417(B)(2) and 130 CMR 610.032.

Action Taken by MassHealth

MassHealth modified the Appellant's request for prior authorization of PCA services, reducing the time from 95 hours, 45 minutes weekly to 82 hours, 45 minutes weekly.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 422.410(C)(1) and 130 CMR 422.412(F), in modifying the Appellant's prior authorization request for PCA services.

Summary of Evidence

The hearing was held by telephone. A registered nurse and clinical appeals reviewer represented MassHealth at hearing and submitted records in support. Exhibit 5. The Appellant is over the age of [REDACTED] and was represented by her daughter, who verified the Appellant's identity.

The MassHealth representative testified that the Appellant's primary diagnosis is a CVA (cerebrovascular accident) or stroke, with left hemiparesis and nerve pain. The Appellant also has occlusion and stenosis of the right middle artery, hypertension, cognitive impairment, depression, and is wheelchair-bound. The MassHealth representative testified that the Appellant's personal care management agency is [REDACTED]. As part of a reevaluation, on December 17, 2024, they requested, on the Appellant's behalf, 95 hours, 45 minutes of PCA assistance time per week. On January 6, 2025, MassHealth reduced the authorization to 82 hours, 45 minutes per week. The time period of the request for services is January 17, 2025 to January 16, 2026. Exhibits 1 and 5.¹ The MassHealth representative testified that MassHealth made adjustments in the areas of mobility, bathing, dressing, undressing, bladder care, and medication assistance. The parties agreed that the Appellant is "totally dependent" for these activities of daily living.

Regarding MassHealth's modifications, the Appellant's daughter testified that the Appellant has had the same amount of hours since 2019, when the Appellant had her stroke, and that she did not understand why MassHealth reduced the hours, because the Appellant's condition has not improved. The Appellant's daughter explained that the Appellant's condition has either plateaued or worsened across different areas of function.

Mobility

Task: Mobility (Wheelchair Propel)	Mins/Ep	Eps/Day	Days/Wk	Total Mins/Wk
[REDACTED]	10	6	5	300
requested	10	8	2	160
MassHealth	5	6	5	150


¹ While not further addressed in this decision, the MassHealth representative testified that, based on documentation, the Appellant also had a home health aide for 20 hours per week. The Appellant's daughter testified that the Appellant does not have a home health aide and that the 20 hours per week are for respite care, whereby an individual comes to sit with the Appellant, and their only role is to provide companionship. The MassHealth representative explained that the Appellant's daughter should contact the listed provider, [REDACTED] to resolve the issue.

approved	5	8	2	80
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The MassHealth representative testified that MassHealth approved the time requested for transfers (which require a Hoyer lift and two-person assist) and repositioning. The MassHealth representative testified that time for mobility assistance involved with propelling the Appellant in her wheelchair was reduced from 10 minutes per episode to 5 minutes per episode, because 10 minutes is longer than typically required. The MassHealth representative testified that the time was just for pushing the Appellant in her wheelchair to another room and that in her clinical judgment, 5 minutes was appropriate, and 10 minutes was not medically necessary. The MassHealth representative explained that no time for navigating stairs was requested.

The Appellant's daughter testified that the time requested was based on an assessor coming the view the Appellant, and that MassHealth has not directly observed the Appellant's routine and needs. The Appellant's daughter testified that because the Appellant has difficulty focusing and paying attention, tasks take longer. The Appellant's daughter said that propelling the Appellant by wheelchair from room to room can take between 5 to 10 minutes per episode. The Appellant's daughter added that these episodes can take up to 10 minutes and that it was hard to generalize. The Appellant's daughter explained that sometimes the Appellant is moved upstairs, that the Appellant had a major depressive episode and that a change of scenery can help her mood.

Bathing

Task: Bathing	Mins/Ep	Eps/Day	Days/Wk	Total Mins/Wk
 requested	60	1	7	420
MassHealth approved	40	1	7	280

The MassHealth representative testified that MassHealth approved the time requested for bathing special transfers, which includes 15 minutes, twice a day for 210 minutes per week. The MassHealth representative testified that with the time MassHealth approved for bathing transfers, the overall time authorized for bathing is 70 minutes daily. The MassHealth representative further testified that MassHealth approved additional time for the Appellant for applying lotion and dressing. The MassHealth representative testified that MassHealth also approved a request for 15 minutes daily for an "evening quick wash" under "other healthcare needs." Exhibit 5 at 25.

The Appellant's daughter testified that it takes a PCA at least an hour daily to shower the Appellant. The Appellant's daughter testified that the Appellant has a shower chair and side rails, but that she is neglectful of her left side. The Appellant's daughter also testified that a special rinse

is used for the Appellant's private area to prevent infection. The Appellant's daughter testified that the Appellant is at risk of falls, and that it is not easy to keep her back washed and rinsed. The Appellant's daughter testified that showers can range between 60 to more than 90 minutes, and that the Appellant's hair is shampooed and rinsed in the shower. The Appellant's daughter stated that she wished someone from MassHealth came to observe or reviewed a video of the Appellant's daily routine.

Dressing and Undressing

Task: Dressing	Mins/Ep	Eps/Day	Days/Wk	Total Mins/Wk
[REDACTED] requested	30	1	7	210
MassHealth approved	25	1	7	175

Task: Undressing	Mins/Ep	Eps/Day	Days/Wk	Total Mins/Wk
[REDACTED] requested	25	1	7	175
MassHealth approved	20	1	7	140

The MassHealth representative testified that MassHealth reduced the time for dressing and undressing because what was requested was longer than what is ordinarily required.

The Appellant's daughter testified that the Appellant wears pajama tops and bottoms to bed and a sweater and pants during the day. The Appellant's daughter testified that dressing the Appellant takes longer than 30 minutes, that sometimes the Appellant needs to be dressed more than once a day if she is incontinent, and that changing is important to keep the Appellant's skin clean and prevent bed sores. The Appellant's daughter testified that the requested time came from the assessment, and that she wished MassHealth had not cut this time without actually observing the Appellant and evaluating her needs. The Appellant's daughter stated that she feels like MassHealth, as the Appellant's insurer, is trying to cut hours that they pay for care, even though the Appellant needs assistance around the clock.

Toileting

Task: Bladder Care	Mins/Ep	Eps/Day	Days/Wk	Total Mins/Wk
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	25	4	5	500
requested	25	6	2	300
MassHealth approved	15	4	5	300
	15	6	2	180

The MassHealth representative testified that MassHealth had reduced the time approved for assistance with bladder care from 25 to 15 minutes per episode. The MassHealth representative testified that MassHealth had approved the time requested for bowel care, and the 15 minutes requested for transfers for bladder care. The MassHealth representative explained that combining the time for transfers and for bladder care resulted in a total of 30 minutes per episode.

The Appellant's daughter testified that the Appellant urinates every 2 to 2.5 hours, that the Appellant's bladder care takes between 30-45 minutes per episode, and that the time requested by [REDACTED] was appropriate.

Assistance with Medications

Task: Physical assist with medications	Mins/Ep	Eps/Day	Days/Wk	Total Mins/Wk
requested	3	2	7	42
MassHealth approved	2	2	7	28

At the hearing, the MassHealth representative agreed to restore the time requested for physical assistance with medications based on her review of the number of medications the Appellant takes. MassHealth agreed to restore 14 minutes weekly, for a total of 42 minutes a week for the task. The total time MassHealth approved per week for PCA assistance with medications is 57 minutes.

At the conclusion of the hearing, the Appellant's daughter testified that the Appellant had been a hardworking person her whole life, working for many years as a nurse and certified nursing assistant until she collapsed at work with a stroke in 2019. The Appellant is now sick and completely dependent on assistance. The Appellant's daughter explained that she is the only family caregiver for the Appellant, and that the Appellant needs the PCA hours she has been receiving for the past five years. The Appellant's daughter stated that it was unconscionable for MassHealth to cut the Appellant's hours and that the Appellant needs care 24 hours per day. With

the cut in hours, the Appellant's daughter testified that she will need to work less in order to be able to provide those hours of service to her mother. The Appellant's daughter stated that all people will get older and many will get sick and that it matters how people are treated.

The MassHealth PCA Program Time-For-Tasks Guidelines² provides the following:

Category	Activity	Description	Common Considerations	Level of Physical Assistance	Average Time Estimates
Mobility	Walking; use of mobility equipment	Movement between locations in room, within the home, and outside, including going up and down stairs inside and outside of home.	<ul style="list-style-type: none"> • level of member's cooperation with activity • effects of mental status • level of pain • height and weight • environmental factors • stairs • accessibility of home • type of adaptive equipment used (e.g., walker, cane, wheelchair) • additional medical equipment (e.g. G-tube, urological equipment, respiratory equipment, oxygen tank) • level of assistance needed for transfers • other 	Minimal Assist	(Average range 1-5 minutes) 1 min.
				Moderate Assist	2 min.
				Maximum Assist	3 min.
				Total Dependence	5 min.
Bathing	Bathing	a. Taking full-	• functional ability	For a, b,	For a, b,

² Available at <https://www.masslegalservices.org/system/files/library/Time-forTasks%20Guidelines%20for%20the%20MassHealth%20PCA%20Program.pdf>

and Grooming Physically assisting a member with basic care such as bathing, personal hygiene, and grooming skills		body bath, including set-up, transfers in/out of tub and towel dry; b. Taking shower, including shampooing hair, set-up, transfer in/out of shower, and towel dry; c. Giving bed bath including set up; d. Shampooing hair, including set-up and hair drying (if not included in shower or bed bath)	<ul style="list-style-type: none"> • severity of symptoms • environmental factors • effects of mental status • level of pain • height and weight • frequency of activity • application of skin care products • type and use of equipment • additional medical equipment (e.g., G-tube, urological equipment, colostomy, respiratory equipment,) • level of assistance needed for transfers • level of member's cooperation with activity • other 	and c Minimal Assist Moderate Assist Maximum Assist Total Dependence For d Minimal Assist Moderate Assist Maximum Assist Total Dependence	and c <i>(Average range 15-60 minutes)</i> 15 min. 30 min. 45 min. 60 min. For d <i>(Average range 5-25 minutes)</i> 5 min. 8 min. 12 min. 25 min
Dressing or Undressing Physically assisting a	Dressing or Undressing	Putting on, fastening, and taking off all items of clothing, including set-up,	<ul style="list-style-type: none"> • functional ability • severity of symptoms • contractures/spasms • environmental factors 	Dressing Minimal Assist	Dressing <i>(Average range 7-30 minutes)</i> 7 min.






		assist with bowel and bladder and routines; cleans/changes toileting equipment (foley bag, catheter, etc.)	<ul style="list-style-type: none"> • bladder and bowel routines • incontinence • use of incontinent products • adaptive equipment • level of assistance needed for transfers • additional medical equipment (e.g., , urological equipment colostomy; foley catheter, etc) • level of member' s cooperation with activity • other 	Moderate Assist	13 min.
				Maximum Assist	19 min.
				Total Dependence	25 min.

Findings of Fact

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

1. [REDACTED] submitted a re-evaluation request for PCA services on behalf of the Appellant, for 95 hours and 45 minutes per week. The time period for the request for services is January 17, 2025 to January 16, 2026. Exhibits 1 & 5.
2. MassHealth modified the request on January 6, 2025 in the areas of mobility (wheelchair propel), bathing, dressing, undressing, toileting (bladder care), and medication assistance (physical assist with medication), authorizing a total of 82 hours, 45 minutes weekly of PCA assistance. Testimony, Exhibits 1 & 5.
3. At the hearing, the MassHealth representative approved the full requested time for physical assist with medication for 42 minutes weekly, and a total of 57 minutes weekly for medication administration. Testimony.
4. Regarding PCA assistance with the remaining activities of daily living in dispute:

Task: Mobility (Wheelchair Propel)	Mins/Ep	Eps/Day	Days/Wk	Total Mins/Wk

	10	6	5	300
requested	10	8	2	160
MassHealth approved	5	6	5	150
	5	8	2	80
Task: Bathing	Mins/Ep	Eps/Day	Days/Wk	Total Mins/Wk
	60	1	7	420
requested				
MassHealth approved	40	1	7	280
Task: Dressing	Mins/Ep	Eps/Day	Days/Wk	Total Mins/Wk
	30	1	7	210
requested				
MassHealth approved	25	1	7	175
Task: Undressing	Mins/Ep	Eps/Day	Days/Wk	Total Mins/Wk
	25	1	7	175
requested				
MassHealth approved	20	1	7	140
Task: Bladder Care	Mins/Ep	Eps/Day	Days/Wk	Total Mins/Wk
	25	4	5	500
requested	25	6	2	300
MassHealth approved	15	4	5	300
	15	6	2	180

Testimony and Exhibit 5.

5. The Appellant had a stroke in 2019, with left hemiparesis and nerve pain. The Appellant also has occlusion and stenosis of the right middle artery, hypertension, cognitive impairment, depression, and is wheelchair-bound. Testimony and Exhibit 5.
6. The Appellant is totally dependent for the activities of daily living of mobility, bathing, dressing and undressing, and toileting. Exhibit 5.

7. At the hearing, the MassHealth representative testified that MassHealth reduced the time requested because it is more than usually required for a task and that MassHealth approved time requested for transfers and other related activities. Testimony.
8. The Appellant's daughter testified that the Appellant is immobile and has trouble focusing, which means that the tasks take the PCA longer. Testimony and Exhibit 5.
9. The MassHealth PCA Program Time-For-Tasks Guidelines provide guidance, as quoted above.
10. The Appellant filed a timely appeal of the January 6, 2025 notice on January 30, 2025. Exhibit 2.

Analysis and Conclusions of Law

Pursuant to 130 CMR 422.403(C), MassHealth will pay for PCA services for members appropriately cared for at home when 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).
- (4) The MassHealth agency has determined that the PCA services are medically necessary.

Pursuant to 130 CMR 450.204(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.

MassHealth covers assistance with the following tasks under the PCA program:

422.410: Activities of Daily Living and Instrumental Activities of Daily Living

(A) Activities of Daily Living (ADLs). Activities of daily living include the following categories of activities. Any number of activities within one category of activity is counted as one ADL:

- (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.

(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.

The MassHealth regulations at 130 CMR 422.412 provide:

422.412: Non-covered 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, 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 EVV as required by the MassHealth Agency.

The Appellant has the burden “to demonstrate the invalidity of the administrative determination.” Andrews v. Division of Medical Assistance, 68 Mass. App. Ct. 228. See also 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 Comm’n., 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).

At the hearing, MassHealth agreed to restore the full requested time for physical assist with medication for 42 minutes weekly, and a total of 57 minutes weekly for medication administration. Therefore, that category is no longer in dispute before the Board of Hearings, and the appeal is APPROVED and DISMISSED IN PART regarding medication administration. 130 CMR 610.035(A)(8).

Turning to the other categories in dispute:

Mobility

MassHealth reduced the time for propelling the Appellant’s wheelchair from 10 minutes per episode to 5 minutes per episode. The Appellant’s daughter testified that this task could take

between 5 to 10 minutes per episode but could not specify how often it took more than 5 minutes. The MassHealth PCA Program Time-For-Tasks Guidelines state that the average time for this task for a totally dependent individual is 5 minutes. Accordingly, the Appellant has not met her burden of demonstrating the invalidity of MassHealth's determination, and the appeal is DENIED IN PART regarding mobility.

Bathing

MassHealth reduced the time for bathing assistance from 60 minutes per daily episode, as requested by [REDACTED] to 40 minutes. The MassHealth representative explained that MassHealth also approved time for the Appellant's 2-person assist/mechanical lift transfer into and out of the shower. The Appellant's daughter testified that assistance with the Appellant's showering can take up to 90 minutes. The MassHealth PCA Program Time-For-Tasks Guidelines state that the average time for this task for a totally dependent individual is 60 minutes. That, combined with the testimony and record evidence about the Appellant's condition and propensity for falls, means that the Appellant has met her burden to show the invalidity of MassHealth's determination. Therefore, the appeal is APPROVED IN PART regarding bathing, and the 60 minutes requested is restored.

Dressing

MassHealth reduced the time for dressing from 30 minutes to 25 minutes, per daily episode. After reviewing the evidence, including the MassHealth Time-For-Tasks Guidelines, I find that the Appellant has met her burden to show the invalidity of MassHealth's determination, as the average time for task for an individual who is "totally dependent," is 30 minutes per episode. Thus, the appeal is APPROVED IN PART regarding dressing, and the 30 minutes requested is restored.

Undressing

MassHealth reduced the time for undressing from 25 minutes to 20 minutes, per daily episode. After reviewing the evidence, including the MassHealth Time-For-Tasks Guidelines, I find that the Appellant has not met her burden to show the invalidity of MassHealth's determination, as the average time for task for an individual who is "totally dependent," is 20 minutes per episode. Thus, the appeal is DENIED IN PART regarding undressing.

Toileting

MassHealth reduced the time requested for bladder care for the Appellant from 25 minutes per episode to 15 minutes per episode. After reviewing the evidence, including the MassHealth Time-For-Tasks Guidelines, I find that the Appellant has met her burden to show the invalidity of MassHealth's determination, as the average time for task for an individual who is "totally

dependent” for bladder care, is 25 minutes per episode. Thus, the appeal is APPROVED IN PART regarding toileting (bladder care), and the 25 minutes requested is restored.

In summary, the appeal is approved and dismissed in part regarding medication administration (physical assist with medication). The appeal is approved in part regarding bathing, dressing, and toileting (bladder care). The appeal is denied in part regarding mobility (wheelchair propel) and undressing.

Regarding the modifications subject to the notice dated January 6, 2025, MassHealth shall implement the following allotments, for the period of January 17, 2025 to January 16, 2026:

- 1) Bathing: 630 minutes per week shall be allotted by MassHealth to the Appellant
- 2) Dressing: 210 minutes per week shall be allotted by MassHealth to the Appellant.
- 3) Toileting (bladder care): 800 minutes per week shall be allotted by MassHealth to the Appellant.
- 4) Medication Assistance: 57 minutes per week shall be allotted by MassHealth to the Appellant.

Order for MassHealth

Approve the time requested for PCA services, consistent with this decision for the requested time period, January 17, 2025 to January 16, 2026, to include:

- 1) Bathing: 630 minutes per week shall be allotted by MassHealth to the Appellant.
- 2) Dressing: 210 minutes per week shall be allotted by MassHealth to the Appellant.
- 3) Toileting (bladder care): 800 minutes per week shall be allotted by MassHealth to the Appellant.
- 4) Medication Assistance: 57 minutes per week shall be allotted by MassHealth to the Appellant.

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.

Emily Sabo
Hearing Officer
Board of Hearings

cc:

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