

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



Appeal Decision:	Denied	Appeal Number:	2502191
Decision Date:	05/29/2025	Hearing Date:	April 17, 2025
Hearing Officer:	Brook Padgett		

**Appellant Representatives:**



**Interpreter:** 

**MassHealth Representatives:**

Linda Phillips, RN, BSN, LNC-CSp.  
Associate Director Appeals, Regulatory  
Compliance & Complex Cases CCM

Kelly Macero, RN, Clinical Manager - CCM

Jennifer Pittsley, RN, Clinical Manager - CCM



*Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
MassHealth of Medical Assistance  
Board of Hearings  
100 Hancock Street, 6<sup>th</sup> floor  
Quincy, MA 02171*

## APPEAL DECISION

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Community Case Management 130 CMR 450.204
<b>Decision Date:</b>	05/29/2025	<b>Hearing Date:</b>	April 17, 2025
<b>MassHealth Reps.:</b>	L. Phillips, RN, BSN, LNC-CSp. K. Macero, RN J. Pittsley, RN	<b>Appellant Reps.:</b>	[REDACTED]
<b>Hearing Location:</b>	Video conference		

### Authority

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

### Jurisdiction

The appellant received a Community Case Management (CCM) Re-Assessment notice dated December 03, 2024 indicating that MassHealth approved 62 hours and 30 minutes per week plus 2 nighttime hours per day of Personal Care Attendant (PCA) and 60 hours of Continuous Skilled Nursing (CSN) services. (Exhibit 1). The appellant filed this appeal timely on February 04, 2025, disputing the number of CSN hours. (130 CMR 610.015(B); Exhibit 2). A challenge to a CCM service plan is valid grounds for appeal. (130 CMR 610.032).

### Action Taken by MassHealth

The appellant has been approved for 60 hours of CSN per week.

### Issue

Were the appellant's CSN hours correctly determined?

## Summary of Evidence

The Associate Director of Appeals and Regulatory Compliance and a Registered Nurse testified regarding the MassHealth/CCM determination of the amount of CSN services that are medically necessary for the appellant. The Director stated CCM provides authorization and coordination of MassHealth Long Term Services and Supports (LTSS), which includes CSN and PCA services, to a defined population of MassHealth eligible, medically complex members. On August 01, 2024, MassHealth/CCM completed an LTSS Needs Assessment (NA) and an initial evaluation for Personal Care Attendant (PCA) Services for the appellant. The representative maintained that based on the CCM's assessments, MassHealth/CCM determined an increase in the amount of CSN services was medically necessary and authorized the appellant to receive 60 hours/week of CSN services. The appellant also had his PCA services assessed on September 06, 2024, and was approved for 76 hours and 30 minutes of day/evening services and 2 hours per night of nighttime PCA services were approved. The appellant has been approved for a total of 136 hours and 30 minutes of CSN and PCA services (130 CMR 438.410(B), 130 CMR 438.414 (A)(2), 130 CMR 450.204(A)).

The representative stated for history the appellant is a [REDACTED] who was enrolled with CCM on May 06, 2024. The appellant has a primary diagnosis which includes quadriplegia. MassHealth/CCM recognizes that the appellant's medical condition is complex and that he requires specific CSN services for respiratory, GI, GU, wound care, pain management, and general assessment for multiple systems throughout the day. Considering the professional, clinical opinions of the MassHealth/CCM Clinical Manager; Physician Orders, Nursing Flow Sheets and Health Care Plan from Family Lives, MassHealth/CCM determined it was medically necessary for the appellant to receive 60 hours per week of CSN interventions.

The appellant and his representative indicated that they agreed with CCM CSN determination of time for all systems<sup>1</sup> other than the time approved for respiratory care; specifically, nighttime tracheal and oral suctioning. The appellant and his representative also agreed to all PCA hours required to perform the appellant's required activities of daily living (ADLs) and instrumental activities of daily living (IADLs).<sup>2</sup> CCM testified that the appellant is required to use a ventilator overnight and part of the day for approximately 20 hours per day. CCM approved tracheostomy (trach) care which includes tracheal and oral suctioning, multiple passes of the suction catheter, and assessment of airway clearance of 5 minutes every 2 hours (12 times per day) = 60 minutes per day.

The representative maintains that the appellant is unable to hire a nurse to attend to the appellant at night for 5 minutes every two hours for trach care and as a result the appellant's wife must always be

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<sup>1</sup> Gastro-Intestinal System/Nutrition, Genito-Urinary, Wound Care/Skin, Pain Management, and Skilled Assessment needs related to fluctuation in medical status.

<sup>2</sup> Bed Bath/Quick Wash, Grooming, Dressing, Undressing, Passive Range of Motion, Eating, Bladder Care, Bowel Care, Laundry, Shopping, Housekeeping, Meal Preparation and Clean-Up, Repositioning, and Nighttime.

attending to the appellant. The appellant's wife as caregiver is exhausted and sleep deprived and will soon be unable to attend to any of the appellant's needs. Although the appellant has been able to get some CSN services so that his wife can occasionally get a break, it is not enough. The appellant is requesting an additional 9 hours so that he can hire a nurse for trach care during the nighttime.

The appellant's wife stated that she would love to find someone to help from 4pm to 11pm Monday through Sunday, but she has been having to go without any help because she cannot find anyone to fill the hours.

MassHealth responded that the nurse is paid only for performing the actual activity and not for time in between an activity. Members in the CCM program are required to have a responsible caregiver or PCA available to fill any gaps when a nurse is unavailable. If the appellant's wife can no longer perform the acts of a caregiver, the appellant may not be able to participate in the CCM program. The representative stated that the current time sheets indicate the appellant is only filling 16 hours a week of the 60 hours approved for CSN.

The appellant's representative responded that she was unaware a PCA could do the work of a nurse with regard to trach suctioning. The representative stated the issue is not whether the appellant is currently using all of his CSN time, but rather if he requires more time for the activity. The representative argued the appellant is having difficulty filling the CSN hours at this time, but that is subject to change and currently it is medically necessary for the appellant to get additional time for suctioning so that the appellant can hire a nurse to perform the activity. It is not reasonable to think the appellant will be able to hire someone who will get paid for 5 minutes of suctioning every 2 hours. The representative questioned how MassHealth/CCM determines the assigned times for trach suctioning.

CCM responded that although it is often difficult to find help it is the responsibility of the appellant and the caregiver to determine how approved hours are allocated. CCM stated they would provide the representative with the CCM LTSSNA CSN Standard Tool used to determine the CSN times.<sup>3</sup> (Exhibit 5).

## Findings of Fact

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

1. The appellant is a [REDACTED] male who enrolled with CCM on May 06, 2024, with a primary diagnosis of quadriplegia. (Exhibit 4 and testimony).
2. The appellant's LTSS NA was completed on August 01, 2024. (Exhibit 4 and testimony).
3. The CCM assessment determined that the appellant's medical condition is complex and that he requires 60 hours of CSN services per week for respiratory, GI, GU, wound care, pain management,

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<sup>3</sup> The time for task tool was emailed to the appellant's representative after the close of the hearing.

and general assessment for multiple systems throughout the day as well as 76 hours and 30 minutes per week of PCA services for a total of CSN and PCA services of 136 hours and 30 minutes per week. (Exhibit 4 and testimony).

4. The appellant and his representative agreed with CCM's CSN determination of time for all systems other than the time approved for tracheal and oral suctioning. (Exhibit 4 and testimony).
5. CCM determined the appellant requires the use of a ventilator overnight and part of the day for approximately 20 hours per day. (Exhibit 4 and testimony).
6. CCM determined the appellant's tracheostomy care includes tracheal and oral suctioning every 2 hours (12 times per day), multiple passes of the suction catheter, and assessment of airway clearance. (Exhibit 4 and testimony).
7. CCM authorized 60 minutes of CSN per day for tracheostomy care (5 minutes, 12 times per day). (Exhibit 4 and testimony).

## Analysis and Conclusions of Law

The appellant is a [REDACTED] male with a primary diagnosis of quadriplegia. Based on the LTSS NA, MassHealth/CCM determined the appellant required an increase in the amount of CSN services that were medically necessary and authorized 60 hours per week of CSN services.

All CSN times were agreed to by the appellant and his representative except for the time for tracheostomy care which comprises of time for suctioning, multiple passes of the suction catheter, and assessment of airway clearance. CCM approved 5 minutes, 12 times per day = 60 minutes per day for this activity. The appellant and his representative argued this amount of time is insufficient as the appellant is unable to hire a nurse to attend to the appellant during the night for 5 minutes every 2 hours. The appellant and his representative requested 9 additional hours for trach care so that they could get nighttime coverage. The representative argues the appellant's wife, as caregiver, is exhausted and sleep deprived and without the additional hours for coverage the appellant's wife will soon be unable to attend to any of the appellant's needs.

MassHealth/CCM authorized the clearly identifiable, specific medical needs that require CSN services. Authorization of CSN is based on medically necessary<sup>4</sup> interventions that require the skills of a licensed

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<sup>4</sup> 130 CMR 450.204 Medical Necessity 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 results in illness or infirmity..(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 MassHealth. Services

nurse and is based on the current medical needs of the member, not on past assessments or previous increases or decreases in service. Further the medical necessity regulations state that MassHealth will not pay for services when there is another 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 MassHealth.

CSN times are based on the average time it may take a CSN provider to perform a specific skilled nursing intervention, and not for the time in between performing such an activity. Although the appellant is requesting an additional CSN for trach care, there has been no medical evidence presented to justify an additional 9 hours of trach care that would result in over 100 additional interventions (9 hours of interventions at 5 minutes per intervention).<sup>5</sup> The appellant and his representative did not argue that the appellant requires more time for more frequent trach interventions, but rather the appellant requires more time as he is unable to find a nurse during the night to perform the currently approved trach care of 5 minutes every 2 hours.

Based on the current medical evidence in the record, MassHealth/CCM has correctly authorized 60 hours per week for CSN, which includes 60 minutes per day for trach care.

This appeal is DENIED.

## Order for MassHealth

None.

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that are less costly to the MassHealth include, but are not limited to, health care reasonably known by the provider, or identified by MassHealth pursuant to a prior-authorization request, to be available to the member through sources described in 130 CMR 450.317 I TPL requirements, 503.007 or 517.007.

<sup>5</sup> MassHealth/CCM uses the CCM LTSSNA CSN Standard Tool to determine the CSN times. The Standard Tool time estimates are guidelines for determining the amount of CSN time required to perform the skilled nursing interventions found on the LTSSNA. These time periods are based on the average time it may take a CSN provider to perform a specific skilled nursing intervention (SNI), depending on the needs of the Member. It is recognized that some Members may require additional time beyond the time estimates in these guidelines, while others may require less. The guidelines state that Skilled Nursing Interventions regarding Tracheostomy (trach) care are to maintain a patent airway, check for proper placement and function of the trach tube, assess the skin around the trach site for irritation, and to avoid infection. Trach care includes suctioning done as part of the trach care procedure, dressing and tie changes, and assessment. Trach changes are included here. Common considerations include age, ability to cooperate, and anatomical differences, standard time ranges for trach care and trach changes may differ between adults and children, along with additional Dressing and tie changes required for wet or soiled ties. **The Standard Tool Average Time Estimates (Per episode of SNI) Routine Trach Care: Adults 5 to 10 minutes, PRN dressing and tie changes 1 to 5 minutes. (Emphasis added).**

## 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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Brook Padgett  
Hearing Officer  
Board of Hearings

cc:

MassHealth representative: Linda Phillips, RN, 333 South Street, Shrewsbury, MA 01545

[REDACTED]