

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved in part; Denied in part	Appeal Number:	2503859
Decision Date:	6/2/2025	Hearing Date:	04/10/2025
Hearing Officer:	Emily Sabo		

Appearance for Appellant:




Appearance for MassHealth:

Kelly Rayen, 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; Denied in part	Issue:	Prior Authorization; Personal Care Attendant (PCA) Services
Decision Date:	6/2/2025	Hearing Date:	04/10/2025
MassHealth's Rep.:	Kelly Rayen	Appellant's Rep.:	
Hearing Location:	Quincy Harbor South 3	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 February 28, 2025, MassHealth modified the Appellant's prior authorization request for personal care attendant (PCA) services from the requested 48 hours weekly to 39 hours. Exhibit 1. The Appellant's representative filed this appeal with the Board of Hearings in a timely manner on March 10, 2025. 130 CMR 610.015; Exhibit 2. Modification of a prior authorization request is valid grounds for appeal to the Board of Hearings. 130 CMR 610.032.

Action Taken by MassHealth

MassHealth modified the Appellant's prior authorization request for PCA services.

Issue

Was MassHealth correct, pursuant to 130 CMR 422.410(A) and 130 CMR 450.204(A), to modify the Appellant's prior authorization request for PCA services from the requested 48 hours weekly to 39 hours weekly?

Summary of Evidence

The hearing was conducted by telephone. The Appellant was represented by his mother and guardian, who verified the Appellant's identity. The MassHealth representative, who is a Registered Nurse and clinical appeals reviewer, testified that the Appellant is 22 years old and has autism and intellectual disabilities, uses leg braces, and has a cyst on his back. The MassHealth representative testified that on February 26, 2025, the Appellant's personal care management services agency, [REDACTED] submitted a re-evaluation request to MassHealth on the Appellant's behalf for 48 hours weekly for the period of March 25, 2025 through March 24, 2026. The MassHealth representative testified that on February 28, 2025, MassHealth modified the authorization to 39 hours on the grounds that the additional requested time was not medically necessary, because some of the services requested were social services, that the Appellant had sufficient functional ability to perform requested tasks without physical assistance, and that certain requests did not meet the professionally recognized standard of care.

The MassHealth representative testified that MassHealth modified the request in the activities of mobility on stairs, mobility (transfers), and grooming (shaving).

Mobility on Stairs

Beginning with the Appellant's mobility on stairs, [REDACTED] requested 7 minutes per episode, 8 times a day, 7 days a week. The requesting comments for mobility state:

Patient has [REDACTED] and needs ROM twice a day. He has an abnormal gait, decreased ROM, [REDACTED], and decreased strength and ROM in BLE and upper extremities. Because of his developmental delay, he needs cuing with transfers and with going up and down stairs. Patient can go up the stair with supervision but requires hands on assist going down the stairs to prevent falls. He also has more behavioral issues. During the evaluation, he was restless and went up and down the stairs four times requiring assistance each time.

Exhibit 5 at 12. The MassHealth representative testified that MassHealth reduced this to 5 minutes per episode, twice a day, 7 days a week, on the basis that the Appellant can go upstairs with supervision, and only needs hands-on assistance when going downstairs. The MassHealth representative testified that the PCA program does not cover supervision and cueing. After discussion, the MassHealth representative agreed to offer 5 minutes per episode, 4 times a day, 7 days a week.

The Appellant's mother testified that the Appellant's knees turn inward and he has a gait deformity and soft bones. The Appellant's mother stated that the Appellant's abnormal gait was

documented by [REDACTED] he has a “history of tripping, high fall risk, decreased balance He has an abnormal gait, decreased [range of motion], [REDACTED] Id. at 7-8. The Appellant’s mother testified that he needs significant assistance, including when he is going up the stairs, and that he needs proximate support on his hips. The Appellant’s mother explained that the Appellant is at high risk for falling and that he has had fractures, requiring him to use a wheelchair for a few weeks if he doesn’t have support. The Appellant’s mother testified that her son falling and hurting himself was her biggest worry. The Appellant’s mother explained that the family’s home has a main staircase of 13-14 steps, along with a similar size staircase to the basement, and up to playroom above the garage. The Appellant’s mother explained that they had previously used baby gates, but her son was now too big for that. The Appellant’s mother testified that he wears orthotics and braces always on his right side and sometimes on the left side, that he has difficulty walking and uses two wheelchairs. The Appellant’s mother testified that the Appellant loves to be out in the community and that when he goes to a bigger store, he needs to be in his wheelchair. The Appellant’s mother explained that the house’s bedrooms and a small office are on the second floor of the home and that the Appellant’s favorite things are his Red Sox tee shirts and certain books and movies that he carries around with him; he will go between the upstairs and downstairs to exchange items. She testified that they try and prevent him from using the stairs to the basement. The Appellant’s mother testified that the Appellant’s [REDACTED] room is upstairs and that she is also the Appellant’s preferred person and so he will go to her room to visit with her. The Appellant’s mother testified that the Appellant may also go upstairs to participate in speech therapy using a computer in the office. The Appellant’s mother testified that the family has sought to find a single-level home. The Appellant’s mother testified that she felt that the nurse from [REDACTED] who requested 7 minutes per episode, 8 times a day, 7 days a week, had observed the Appellant and that the time was justified.

Mobility (Transfers)

Turning to mobility for transfers, [REDACTED] requested 5 minutes per episode, 6 times per day, 5 days per week. MassHealth modified this to zero on the grounds that the Appellant is independent for transfers and that cueing is a non-covered service. After hearing testimony from the Appellant’s mother that the Appellant sometimes will need one- to two-handed assists with transfers, the MassHealth representative agreed to authorize 1 minute per episode, 6 times per day, 5 days per week.

The Appellant’s mother testified that the Appellant needs a hand getting on and off of the sofa. She testified that he also sometimes doesn’t want to get off the sofa or bed and needs to be coaxed. The Appellant’s mother testified that these incidents can take between 30 seconds to 2 minutes. The Appellant’s mother stated that she had previously been told that transfers were about the PCAs assisting the Appellant with getting on and off the bus.

Grooming (Shaving)

██████████ requested 20 minutes per episode, once a day, 7 days a week for shaving. MassHealth modified this to 10 minutes, once per day, 7 days per week. The MassHealth representative testified that 10 minutes was authorized for the shaving of the Appellant's face and that if the PCA is shaving part of the Appellant's back related to his cyst, that it does not meet adequate standards of care because the PCA does not have the experience and training to assess or provide treatment.

The Appellant's mother testified that the Appellant was diagnosed with a cyst 14 months ago and that she has not instructed any of the Appellant's PCAs to shave the area. The Appellant's mother explained that the Appellant's doctor shaves the area. She explained that the doctor said to watch and monitor the area to make sure hair does not get in there. The Appellant's mother stated that she did not know why ██████████ requested the time in this category but that they may have put it in because it involves the removal of hair. The Appellant's mother testified that the PCA authorization process can be very opaque, and that she wished it was better. She also testified that having MassHealth supports since the Appellant was ██████ has been very helpful.

Findings of Fact

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

1. The Appellant is a ██████████ man and MassHealth Standard member (Testimony, Exhibit 4).
2. The Appellant has autism and intellectual disabilities, uses leg braces, and has a cyst on his back. The Appellant has an abnormal gait, ██████████ a history of tripping, decrease balance, and is at a high risk of falling (Testimony, Exhibit 5).
3. ██████████ submitted a re-evaluation request for PCA services to MassHealth on the Appellant's behalf for 48 hours weekly (Testimony, Exhibits 1 & 5).
4. By notice dated February 28, 2025, MassHealth modified the request to allow for 39 hours of PCA assistance per week (Testimony, Exhibits 1 & 5).
5. The time period for this prior authorization request is March 25, 2025 to March 24, 2026 (Testimony, Exhibit 1).
6. ██████████ requested, on the Appellant's behalf, PCA assistance with Mobility (stairs) for 392 minutes weekly (Testimony, Exhibit 5).
7. MassHealth modified the requested time for Mobility (stairs) to 70 minutes weekly. At the hearing, MassHealth agreed to modify the time to 140 minutes weekly (Testimony, Exhibit 5).

8. [REDACTED] requested, on the Appellant's behalf, PCA assistance with Mobility (transfers) for 150 minutes weekly (Testimony, Exhibit 5).
9. MassHealth modified the requested time for Mobility (transfers) to 0 minutes weekly. At the hearing, MassHealth agreed to modify the time to 30 minutes weekly (Testimony, Exhibit 5).
10. [REDACTED] requested, on the Appellant's behalf, PCA assistance with Grooming (shaving) for 140 minutes weekly (Testimony, Exhibit 5).
11. MassHealth modified the requested time for Grooming (shaving) to 70 minutes weekly (Testimony, Exhibit 5).

Analysis and Conclusions of Law

MassHealth regulations about PCA services are found at 130 CMR 422.000 et seq. Regulation 130 CMR 422.402 defines a PCA as a person who is hired by the member or surrogate to provide PCA services, which are further defined as assistance with the activities of daily living and instrumental activities of daily living as described in 130 CMR 422.410.

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.

130 CMR 422.410(A).

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;

130 CMR 422.412(A), (B), (C).

Pursuant to 130 CMR 450.204(A), MassHealth 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 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 MassHealth. Services that are less costly to 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(C), 503.007, or 517.007.

130 CMR 450.204(A).

Mobility on Stairs

Under 130 CMR 422.412(C), cueing, prompting, and supervising are not PCA services covered by MassHealth. However, based on the evidence in the record and the testimony of the Appellant's mother, I find that the Appellant needs hands-on assistance going up and down the stairs in his home, and that he does so frequently enough that the 8 times daily requested by [REDACTED] is appropriate. I also find that due to the problems with his feet and gait, and his increased risk of falls, that it is medically necessary. However, I also find that 5 minutes per episode, instead of the 7 minutes requested, is the appropriate amount of time per episode due to the Appellant's need being "moderate" in that area. Accordingly, the appeal is approved in part and the request is modified to 5 minutes per episode, 8 times per day, 7 days per week for a total of 280 minutes

weekly.

Mobility (transfers)

██████████ requested 5 minutes per episode, 6 times per day, 5 days per week for transfers. MassHealth modified this to zero initially, but during the hearing, agreed to authorize 1 minute per episode, 6 times per day, 5 days per week. Based on the evidence in the record, the Appellant has not established that MassHealth erred in only authorizing 30 minutes per week for transfers and the appeal is approved in part and denied in part.

Grooming (shaving)

██████████ requested 20 minutes per episode, once a day, 7 days a week for shaving. MassHealth modified this to 10 minutes, once per day, 7 days per week. Based on the evidence in the record, the Appellant has not established that MassHealth erred in making this modification and the appeal is denied.

Order for MassHealth

End aid pending. Adjust notice of February 28, 2025, to authorize 280 minutes of PCA assistance weekly for Mobility on Stairs and 30 minutes weekly for Mobility (transfers) for the prior authorization period of March 25, 2025, to March 24, 2026.

Send notice to Appellant of implementation only; do not include appeal rights.

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

[REDACTED]

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