

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Dismissed in part; Denied in part	<b>Appeal Number:</b>	2503957
<b>Decision Date:</b>	5/12/2025	<b>Hearing Date:</b>	04/08/2025
<b>Hearing Officer:</b>	Christine Therrien		

**Appearances for Appellant:**




**Appearance for MassHealth:**

Kelly Rayen, R.N.



*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

<b>Appeal Decision:</b>	Dismissed in part; Denied in part	<b>Issue:</b>	PCA – medical necessity
<b>Decision Date:</b>	5/12/2025	<b>Hearing Date:</b>	04/08/2025
<b>MassHealth's Rep.:</b>	Kelly Rayen, R.N.	<b>Appellant's Reps.:</b>	
<b>Hearing Location:</b>	Quincy Harbor South Telephonic		

### 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 3/4/25, MassHealth modified the appellant's prior authorization request for personal care attendant (PCA) services. (130 CMR 422.410 and Exhibit 1). The appellant filed this appeal in a timely manner on 3/10/25. (130 CMR 610.015(B) and Exhibit 2). Modifications of a request for assistance are valid grounds for appeal. (130 CMR 610.032).

### Action Taken by MassHealth

MassHealth modified the appellant's request for PCA services.

### Issue

The issue is whether MassHealth was correct, under 130 CMR 422.410, 422.412, and 450.204, in modifying the appellant's prior authorization request for PCA services.

### Summary of Evidence

The MassHealth representative testified that a prior authorization (PA) request for 41 hours and 45 minutes per week for personal care attendant (PCA) services was submitted by [REDACTED] a PCM agency, on behalf of the appellant on 2/18/25. The MassHealth representative testified that the PA for PCA services is applicable for dates of service beginning 3/4/25 and ending 3/3/26. The MassHealth representative testified that MassHealth modified the request to 36 hours and 15 minutes per week. The appellant is [REDACTED] years old with a primary diagnosis of developmental delay and restrictive lung disease. The appellant is in the process of moving into his own apartment and out of his mother's house. The MassHealth representative testified that the appellant is listed as independent with mobility, transfers in and out of bed, transfers on and off the toilet, and feeding himself. The appellant requires moderate assistance with bathing, toileting, and dressing. The appellant requires maximum assistance with grooming and medication administration. The MassHealth representative testified that modifications were made to the appellant's request for PCA assistance with Activities of Daily Living (ADLs), which included dressing, undressing, and toileting. The appellant agreed to the time MassHealth authorized for dressing, 15 minutes, once a day, 7 days a week, and undressing, 10 minutes, once a day, 7 days a week, so these issues are **dismissed**. The appellant and MassHealth agreed on 7 minutes, 4 episodes per day, 7 days per week for toileting–bowel care, so this issue is **dismissed**.

The MassHealth representative testified that the appellant requested 95 minutes per day, seven days per week, for meal preparation and cleanup. The MassHealth representative testified that MassHealth modified this request to 90 minutes per day, seven days per week, because the time requested, for assistance with meal preparation and cleanup, is longer than ordinarily required for someone with the appellant's physical needs. The MassHealth representative testified that there are no indications that the appellant requires any special meal preparation. The MassHealth representative testified that 90 minutes per day is usually the maximum amount allowed for someone who is unable to participate in meal preparation.

The appellant's mother testified that the appellant expects a snack every day. The MassHealth representative testified that the PA did not request time for a snack. The MassHealth representative testified that the PA requested 20 minutes per day for breakfast, 30 minutes per day for lunch, and 45 minutes per day for dinner.

## Findings of Fact

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

1. A PA request for 41 hours and 45 minutes per week for PCA services was submitted by [REDACTED] on behalf of the appellant on 2/18/25.

2. The dates of service are from 3/4/25 to 3/3/26.
3. MassHealth modified the request to 36 hours and 15 minutes of PCA assistance per week.
4. The appellant is ■ years old with a primary diagnosis of developmental delay and restrictive lung disease.
5. The appellant is in the process of moving into his own apartment and out of his mother's house.
6. The appellant is listed as independent with mobility, transfers in and out of bed, transfers on and off the toilet, and feeding himself.
7. The appellant requires moderate assistance with bathing, toileting, and dressing.
8. The appellant requires maximum assistance with grooming and medication administration.
9. Modifications were made to the appellant's request for ADLs, which include dressing, undressing, and toileting.
10. The appellant agreed to the time authorized by MassHealth for dressing, 15 minutes, once a day, 7 days a week, and undressing, 10 minutes, once a day, 7 days a week, so these issues are **dismissed**.
11. The appellant and MassHealth agreed on 7 minutes, 4 episodes per day, 7 days per week of PCA assistance with toileting–bowel care, so this issue is **dismissed**.
12. The appellant requested 95 minutes per day, seven days per week, for meal preparation and cleanup.
13. MassHealth modified this request to 90 minutes per day, seven days per week, because the time requested, for assistance with meal preparation and cleanup, is longer than ordinarily required for someone with the appellant's physical needs.
14. There are no indications that the appellant requires any special meal preparation.
15. 90 minutes per day is usually the maximum amount of PCA assistance allowed for someone who is unable to participate in meal preparation.
16. The PA request at issue did not request time for a snack. The PA requested 20 minutes

per day for breakfast, 30 minutes per day for lunch, and 45 minutes per day for dinner.

## Analysis and Conclusions of Law

MassHealth covers personal care services provided to eligible MassHealth members who can be appropriately cared for in the home when all 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 or grooming;
  - d. dressing or undressing;
  - e. range-of-motion exercises;
  - f. eating; and
  - g. toileting.
- (4) The Division has determined that the PCA services are medically necessary and has granted a prior authorization for PCA services.

(130 CMR 422.403(C))

MassHealth will pay for PCA services provided to MassHealth members who can be appropriately cared for in the home. (130 CMR 422.401 *et seq.*). The member must require physical assistance. The personal care agency determines the extent of the personal care services provided by a paid PCA. (130 CMR 422.403). Personal care services consist of physical assistance with activities of daily living (ADLs). (130 CMR 422.410(A)).

### 120 CMR 422.410: Activities of Daily Living and Instrumental Activities of Daily Living

- (A) Activities of Daily Living. 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 or 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.

(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.

The requested services must also be medically necessary for prior authorization to be approved. (130 CMR 450.204). 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) A service is “medically necessary” if:

- (1) it is reasonably calculated to prevent, diagnose, prevent 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. Services that are less costly to the MassHealth include, but are not limited to, health care reasonably known

by the provider or identified by the 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.

Regulations at 130 CMR 422.412 describe non-covered PCA services, as follows:

MassHealth does not cover any of the following as part of the PCA program or the transitional living program. (130 CMR 422.412).

- (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.
- (H) PCA services provided to a member without the use of EVV as required by the MassHealth agency.

Per 130 CMR 503.007, MassHealth is the payer of last resort and only pays for health care and related services when no other source of payment is available, except as otherwise required by federal law.

- (A) Health Insurance. Every applicant and member must obtain and maintain available health insurance in accordance with 130 CMR 505.000: Health Care Reform: MassHealth: Coverage Types. Failure to do so may result in loss or denial of eligibility unless the applicant or member is
  - (1) receiving MassHealth Standard or MassHealth CommonHealth; and
  - (2) younger than ■ years old or pregnant.
- (B) Use of Benefits. The MassHealth agency does not pay for any health care and related services that are available
  - (1) through the member's health-insurance, if any; or
  - (2) at no cost to the member including, but not limited to, any such services that are available through any agency of the local, state, or federal government, or any entity legally obligated to provide those services.

The appellant agreed to the time MassHealth authorized for dressing, 15 minutes, once a day, 7 days a week, and undressing, 10 minutes, once a day, 7 days a week, so these issues are **dismissed**. The appellant and MassHealth agreed on 7 minutes, 4 episodes per day, 7 days per week for toileting–bowel care, so this issue is **dismissed**.

The appellant requested 95 minutes per day, 7 days a week, for meal preparation and cleanup. MassHealth modified this request to 90 a day, 7 days a week. MassHealth modified this request because the time requested is longer than ordinarily required for someone with the appellant's needs. The appellant's PA request and evaluation did not list a special diet, nor did the PA request time for a snack.<sup>1</sup> For this reason, the appeal of the modification to the request for meal preparation and cleanup is **DENIED**.

## Order for MassHealth

None, other than to implement the issue agreed to at hearing, 7 minutes, 4 episodes per day, 7 days per week of PCA assistance with toileting–bowel care.

## 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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<sup>1</sup> The appellant can request that the PCM agency submit an adjustment to request additional PCA assistance time for a snack.



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Christine Therrien  
Hearing Officer  
Board of Hearings

cc:

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