

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied in part; Approved in part	Appeal Number:	2504264
Decision Date:	5/16/2025	Hearing Date:	04/17/2025
Hearing Officer:	Radha Tilva		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Kelly Rayen, R.N. (Optum Representative)



*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:	Denied in part; Approved in part	Issue:	Prior Authorization; PCA Services
Decision Date:	5/16/2025	Hearing Date:	04/17/2025
MassHealth's Rep.:	Kelly Rayen, R.N.	Appellant's Rep.:	Pro se
Hearing Location:	Telephonic	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

Through a notice dated February 20, 2025, MassHealth modified appellant's prior authorization request for personal care attendant (PCA) hours from 14 hours and 30 minutes per week to 11 hours and 45 minutes per week (Exhibit 1). The appellant filed this appeal in a timely manner on March 14, 2025 (see 130 CMR 610.015(B) and Exhibit 2). Challenging the scope of assistance is valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth modified appellant's prior authorization request for PCA hours.

Issue

The appeal issue is whether MassHealth was correct in modifying appellant's prior authorization request for PCA hours?

Summary of Evidence

On or around February 19, 2025, the appellant's personal care management ("PCM") agency, [REDACTED], submitted an initial prior authorization request for PCA services seeking 14 hours and 30 minutes per week of PCA assistance time for dates of service February 20, 2025 through February 19, 2026. The appellant's diagnoses include osteoarthritis to bilateral knees, hips, and back, hypertension, PTSD, anxiety, vertigo, incontinence, obesity, and history of surgery to both shoulders (Exhibit 6, p. 9).

On February 20, 2024, MassHealth made 3 modifications to the PA request. The first modification was to dressing which was requested at 10 minutes, 7 days a week and modified to 7 minutes, 7 days a week (Exhibit 6, p. 23). The MassHealth representative explained that the time requested was longer than ordinarily required for someone with the appellant's needs, and that appellant is a minimum assist with dressing, meaning that she can do 75% of the task. The MassHealth representative testified that the occupational therapist recommended a shoehorn to help appellant with her shoes and a dressing device to help assist her with dressing, and explained that these are less costly alternatives to MassHealth. The MassHealth representative further testified that appellant might need to do physical therapy and occupational therapy to help her with dizziness and to help her gain independence to perform tasks. The occupational therapist would also teach her how to use an assistive device.

The appellant testified that the process for dressing and undressing takes about 17 to 18 minutes.¹ The appellant stated that she bought weighted boots, which the PCA helps her with, and explained that a shoehorn would not help her because the PCA the issue is not putting the shoe on, but rather securing it with a zipper and Velcro strap. The appellant testified that she can sometimes put her top on independently, but she has a pinched nerve in her neck that aggravates her left arm; the PCA sometimes has to help with tops as well, approximately a couple of days a week. The appellant testified that her PCA helps pick out her clothes and assists with putting on her socks, underwear, and shoes. The PCA also puts her pads and pull ups on as she is incontinent. The PCA will pull the pants on to her knees, and then she can put the pant on from there. The appellant testified that she does not want to go to a physical therapist, as it causes her more pain.

The second modification was for bladder care which was requested at 2 minutes, 6 times a day, 7 days a week (Exhibit 6, p. 25). This was modified to 0 minutes, 6 times a day, 7 days a week (*Id.*). The MassHealth representative testified that the reason for the modification was because the time requested was longer than ordinarily required for someone with the appellant's needs. The occupational therapist stated in the assessment that appellant has a good bilateral grip and can get on and off the toilet (Exhibit 6, p. 9). The appellant testified that she lives 24 hours a day in an overnight pull up or pads, and the PCA is the one who assists her in taking the pad or pull up on and off. The appellant stated that sometimes her clothes get wet, and she has accidents as the pads and incontinence diapers she uses are not of a good quality. The appellant stated that she

¹ Undressing was approved at 5 minutes, 1 time a day, 7 days a week (Exhibit 6, p. 23).

can wipe herself when she urinates on the toilet. After hearing the appellant's testimony, the MassHealth representative offered two minutes, times a day, 7 days a week to assist appellant with her incontinence.

The third modification was for meal preparation and cleanup, which was requested at 50 minutes daily and modified to 40 (Exhibit 6, p. 32). The MassHealth representative testified that the reason for the modification was because the time requested was longer than ordinarily required for someone with the appellant's needs. The assessment stated that the consumer prepares light breakfast and lunch while seated, and that the appellant has decreased standing tolerance at dinner (Exhibit 6, p. 7). The time requested for dinner was 35 minutes daily, which MassHealth authorized, and then gave an additional 5 minutes for breakfast and lunch. The MassHealth representative explained that the PCA is compensated for hands-on assistance, not for baking or waiting time. The representative further explained that appellant could likely participate in meal preparation and cleanup, if she also participated in occupational or physical therapy.

The appellant testified that she can no longer participate in cooking and that it takes the PCA approximately 50 minutes to an hour daily to prepare her food. She explained that breakfast is usually a turkey bacon, lettuce, tomato sandwich or egg on weekdays, and on the weekends she has juice, fruit, tea, or a cereal bar. For lunch, she typically has a tuna sandwich and soup or salad and sandwich. For dinner, she usually has dishes like chicken alfredo or baked macaroni and cheese with protein. The appellant explained that she stays in her master suite and does not go to the kitchen as it is too much walking for her. She has a microwave in her room to allow her to warm up her tea without getting out of her recliner. The appellant testified that she has vertigo and has fallen multiple times. She has special meals, including low sodium and low cholesterol food. The PCM agency wrote that she has a history of accidental burns and difficulty holding pots and pans (Exhibit 6, p. 32).

Findings of Fact

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

1. On or around February 19, 2025, the appellant's personal care management ("PCM") agency, [REDACTED], submitted an initial prior authorization request for PCA services seeking 14 hours and 30 minutes per week of PCA assistance time for dates of service February 20, 2025 through February 19, 2026.
2. The appellant's diagnoses include osteoarthritis to bilateral knees, hips, and back, hypertension, PTSD, anxiety, vertigo, incontinence, obesity, and history of surgery to both shoulders.
3. Through a notice dated February 20, 2025, MassHealth modified appellant's prior authorization request for personal care attendant (PCA) hours to 11 hours and 45 minutes per week (Exhibit 1).

4. The first modification was to dressing which was requested at 10 minutes, 7 days a week and modified to 7 minutes, 7 days a week.
 - a. The appellant can dress herself from the knee up once her PCA puts the pants up to her knees, and only requires assistance with her top a couple of times a week.
 - b. The PCA assists with socks and securing appellant's shoes as well which have a Velcro strap.
5. The second modification was for bladder care which was requested at 2 minutes, 6 times a day, 7 days a week and modified to 0 minutes.
 - a. Appellant has incontinence and needs assistance changing her clothes, pull ups and pads, which leak frequently.
 - b. Appellant can wipe herself when she urinates.
6. The third modification was for meal preparation and cleanup, which was requested at 50 minutes daily and modified to 40 minutes daily.
 - a. The appellant does not participate at all in making her meals.
 - b. MassHealth gave 5 minutes for breakfast, 5 for lunch, and 35 minutes for dinner.

Analysis and Conclusions of Law

Prior authorization for PCA services determines the medical necessity of the authorized service (130 CMR 422.416). The regulations for MassHealth define a service as "medically necessary" if 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 (130 CMR 450.204(A)(1)). In addition, 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 (130 CMR 450.204(A)(2)). 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) (*Id.*). "Medically necessary services must be of a quality that meets professionally recognized standards of health care, and must be substantiated by records including evidence of such medical necessity and quality" (130 CMR 450.204(B)). A provider must make those records, including medical records, available to

MassHealth upon request (130 CMR 450.204(B)); 42 U.S.C. § 1396a(a)(30), 42 CFR §§ 440.230, 440.260.).

MassHealth generally covers PCA services provided to eligible MassHealth members with a permanent or chronic disability that impairs their functional ability to perform activities of daily living (“ADLs”) and instrumental activities of daily living (“IADLs”), but who can be appropriately cared for in the home. MassHealth will only approve these services when they are medically necessary, and the member requires assistance with at least two ADLs (See 130 CMR 422.403(C)). Members are responsible for hiring and training their own PCAs (130 CMR 422.420(A)(6); see also 130 CMR 422.422(A) (PCM agency must confirm member is able to employ and direct PCAs, or else have a surrogate.).)

ADLs include:

- (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)).

IADLs include:

- (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.

(130 CMR 422.410(B)).

MassHealth will consider individual circumstances in determining the number of hours of PCA services that a member needs, but it assumes that family members will provide most routine IADLs (See 130 CMR 422.410(C)). MassHealth limits what services it covers, within its broad definitions of ADLs and IADLs. For instance, MassHealth only covers the “activity time” of “providing assistance” (130 CMR 422.411(A)). This means that MassHealth does not cover downtime that may exist within a task. Further, there are certain services that MassHealth will not cover:

- (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 [electronic visit verification] as required by the MassHealth agency.

(130 CMR 422.412).

The first modification, to PCA assistance time for dressing, was modified to 7 minutes a day, 7 days

a week. The appellant mostly needs assistance with the lower body dressing (putting pants, shoes, and incontinence pads on). The appellant requested 10 minutes per day for dressing. The modification by MassHealth was reasonable as appellant testified that she can participate in some of the dressing herself and the PCA assessment stated that she needs assistance with lower extremity dressing and footwear (Exhibit 6, p. 23). Thus, 7 minutes per day, 7 days a week is sufficient time for the PCA to assist with dressing; the appeal for dressing is denied.

With respect to the next modification of toileting, MassHealth authorized no PCA assistance time, but at hearing, the MassHealth representative offered 2 minutes, 2 times a day, 7 days a week for bladder care after hearing the appellant's testimony. In the PA request, the occupational therapist wrote that appellant can get on and off the toilet independently and has good grasp; however, the appellant testified that she lives in her overnight pull ups 24 hours a day and that her PCA assists her taking the pull ups on and off, and changing her pad. The appellant's testimony was credible and two minutes, 6 times a day to assist her with changing her pull ups and pad seems reasonable. Thus, the time for toileting should be approved at 2 minutes, 6 times a day, 7 days a week for the prior authorization period of February 20, 2025 through February 19, 2026. The appeal as to toileting is approved.

The last modification was for meal preparation and cleanup, which was requested at 50 minutes per day and modified down to 40 minutes daily. 35 minutes of PCA assistance time was allotted for dinner, and 5 minutes each for breakfast and lunch. The MassHealth representative stated that the appellant could help participate in meals if she saw an occupational or physical therapist. While the regulations support that in order to meet medical necessity there must be no other medical service suitable and available to appellant, providing occupational and physical therapy is not really comparable to paying a PCA to assist with meal preparation (130 CMR 450.204(A)(2)). There are no guarantees that if the appellant went to therapy, this would help make her more independent with these tasks. Appellant's testimony that she is unable to assist at all with meal preparation and cleanup is credible, and the time requested of 50 minutes per day is reasonable for meal preparation and cleanup. Thus, the appeal as to meal preparation and cleanup is approved.

For the foregoing reasons the time requested for PCA services for meal preparation (50 minutes daily) and toileting (84 minutes daily), in particular bladder care, is approved as requested going retroactive to the start of the prior authorization period, which began on February 20, 2025. The time authorized for dressing will remain at 7 minutes daily. This appeal is denied in part and approved in part.

Order for MassHealth

Approve 50 minutes daily for meal preparation and cleanup, and 84 minutes daily for bladder care retroactive to February 20, 2025.

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.

Radha Tilva
Hearing Officer
Board of Hearings

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