

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2504859
Decision Date:	6/9/2025	Hearing Date:	4/29/2025
Hearing Officer:	Patrick Grogan	Record Open to:	N/A

Appearances for Appellant:



Appearance for MassHealth:

Kelly Rayen, RN

Interpreter:



*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	Issue:	Prior Authorization, PCA Services
Decision Date:	6/9/2025	Hearing Date:	4/29/2025
MassHealth's Rep.:	Kelly Rayen, RN	Appellant's Reps.:	[REDACTED]
Hearing Location:	Remote (Tel)	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 the Appellant's prior authorization for personal care attendant (PCA) services because MassHealth determined that some of the requested times for personal attendant services include times that are longer than ordinarily required for someone with the Appellant's physical needs (see 130 CMR 422.204(A)(1), 130 CMR 422.410(A)(2), 130 CMR 422.410(A)(4), 130 CMR 422.410(A)(7), and 130 CMR 450.204(A)(1)). The Appellant filed this appeal in a timely manner on March 25, 2025. (see Exhibit 2 and 130 CMR 610.015(B)). A decision modifying assistance is valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth modified the Appellant's prior authorization for personal care attendant (PCA) services because MassHealth determined that some of the requested times for personal care attendant services include times that are longer than ordinarily required for someone with the Appellant's physical needs (130 CMR 422.204(A)(1), 130 CMR 422.410(A)(2), 130 CMR 422.410(A)(4), 130 CMR 422.410(A)(7), and 130 CMR 450.204(A)(1)).

Issue

The appeal issues are whether MassHealth was correct, pursuant to 130 CMR 422.204(A)(1), 130 CMR 422.410(A)(2), 130 CMR 422.410(A)(4), 130 CMR 422.410(A)(7), and 130 CMR 450.204(A)(1) in determining that some of the requested times for personal care attendant services include times that are longer than ordinarily required for someone with the Appellant's physical needs.

Summary of Evidence

The Appellant is a MassHealth member over the age of 65 who seeks prior approval for PCA services. (Testimony, Exhibit 1, Exhibit 5). MassHealth was represented by a nurse from Optum. The Appellant appeared on her own behalf, along with the Appeal Representative, and an interpreter. All parties appeared telephonically. Once sworn, the Appellant stated she wished for the Appeal Representative to proceed on her behalf. The Appeal Representative stated he did not require an interpreter. Once confirmed on the Record, after being sworn, the interpreter was released, and the Hearing proceeded with the nurse from Optum and the Appeal Representative.

MassHealth received a prior authorization request for PCA services submitted by [REDACTED] the Appellant's Personal Care Management (PCM) Agency. (Testimony, Exhibit 1) The Appellant's primary diagnoses include chronic lymphocytic leukemia, congenital spondylolysis, colon polyps, dizziness, anxiety, hand tremors, SOB, DOE. (Testimony, Exhibit 5, pg. 7). Secondary diagnoses include chronic back pain, generalized weakness, cardiac arrhythmia, cataracts, atrial fibrillation, frequent falls, and age-related debility (Testimony, Exhibit 5, pg. 7).

MassHealth, represented by the nurse from Optum, testified that MassHealth modified the Appellant's prior authorization for personal care attendant (PCA) services because MassHealth determined that some of the requested times for personal care attendant services include times that are longer than ordinarily required for someone with the Appellant's physical needs (130 CMR 422.204(A)(1), 130 CMR 422.410(A)(2), 130 CMR 422.410(A)(4), 130 CMR 422.410(A)(7), and 130 CMR 450.204(A)(1)). Specifically, MassHealth made multiple modifications discussed infra. (Testimony)

Regarding the modification of 1) ADL – Mobility – from 7 minutes, 10 times a day, 7 days a week to 5 minutes, 9 times a day, 7 days a week (Exhibit 5, pgs. 11-12), Optum testified that the requested time is longer than ordinarily required for someone with the Appellant's physical needs for Mobility (see 130 CMR 422.204(A)(1))¹. Optum testified that the Appellant had received 5 minutes, 8 times a day, 7 days a week for Mobility during the previous PCA service period. (Testimony). The Appeal Representative testified that the Appellant requires the time due to her difficulty with Mobility. (Testimony). The Appeal Representative relied upon the in-person evaluation performed to support the requested time. (Testimony) No resolution was reached

¹ Nighttime hours for Mobility were approved as requested. (Testimony, Exhibit 5, pg. 11-12)

between the parties regarding this modification.

Regarding the modification of 2) ADL – Dressing – from 35 minutes, 1 time a day, 7 days a week to 30 minutes, 1 time a day, 7 days a week (Exhibit 5, pgs. 18-19), Optum testified that the requested time is longer than ordinarily required for someone with the Appellant’s physical needs for Dressing (see 130 CMR 422.204(A)(4)). Optum testified that the Appellant had received 30 minutes, 1 time a day, 7 days a week for Dressing during the previous PCA service period. (Testimony). The Appeal Representative testified that the Appellant requires the additional time due to her difficulty with Dressing. (Testimony). The Appeal Representative relied upon the in-person evaluation performed to support the requested time. (Testimony) No resolution was reached between the parties regarding this modification.

Regarding the modification of 3) ADL – Undressing – from 30 minutes, 1 time a day, 7 days a week to 25 minutes, 1 time a day, 7 days a week (Exhibit 5, pgs. 18-19), Optum testified that the requested time is longer than ordinarily required for someone with the Appellant’s physical needs for Undressing (see 130 CMR 422.204(A)(4)). Optum testified that the Appellant had received 25 minutes, 1 time a day, 7 days a week for Undressing during the previous PCA service period. (Testimony). The Appeal Representative testified that the Appellant requires the additional time due to her difficulty with Undressing. (Testimony). The Appeal Representative relied upon the in-person evaluation performed to support the requested time. (Testimony) No resolution was reached between the parties regarding this modification.

Regarding the modification of 4) ADL – Toileting, Bladder Care – from 20 minutes, 12 times a day, 7 days a week to 15 minutes, 8 times a day, 7 days a week (Exhibit 7, pgs. 20-21), Optum testified that the requested time is longer than ordinarily required for someone with the Appellant’s physical needs for Toileting, Bladder Care (see 130 CMR 422.204(A)(7))². Optum testified that the Appellant had received 15 minutes, 8 times a day, 7 days a week for Toileting, Bladder Care during the previous PCA service period. (Testimony). Optum stated that the Appellant has been approved for 8 pads a day, 8 pull-up undergarments a day, as well as 3 liners a day. (Testimony) Optum pointed out the Appellant had requested 15 minutes per episode for the nighttime hours which had been approved as requested. (Testimony, Exhibit 5). The Appeal Representative testified that the Appellant requires the additional time due to her difficulty with Toileting, Bladder Care. (Testimony). The Appeal Representative explained that the bathroom was narrow, and that Appellant utilizes a commode within her bedroom for nighttime toileting. (Testimony). The Appeal Representative relied upon the in-person evaluation performed to support the requested time. (Testimony) MassHealth explained that transfer to the bathroom is not included within the time for task for Toileting, Bladder Care. (Testimony) No resolution was reached between the parties regarding this modification.

Regarding the modification of 5) ADL – Medication Assistance – from 15 minutes, 3

² Nighttime hours for Toileting, Bladder Care were approved as requested. (Testimony, Exhibit 5, pg. 20-21)

times a day, 7 days a week to 5 minutes, 3 times a day, 7 days a week (Exhibit 5, pgs. 22-23) Optum testified that the requested time is longer than ordinarily required for someone with the Appellant's physical needs for Medication Assistance. (see 130 CMR 422.204(A)(2)) Optum testified that the Appellant had received 3 minutes, 3 times a day, 7 days a week for Medication Assistance during the previous PCA service period. (Testimony). The Appeal Representative testified that the Appellant requires additional time due to her difficulty with Medication Assistance and explained that there were multiple ointments utilized by the Appellant. (Testimony). Optum cited to the Appellant's medication list (Exhibit 5, pg. 43) and noted that there was only one topical ointment listed. (Testimony) The Appeal Representative responded that the ointments were over the counter medications, and the Appeal Representative must have forgotten to include them on the list³. (Testimony). Optum noted that multiple over the counter medications were listed within the Appellant's medication list, and that there was no documentation regarding any additional ointments utilized by the Appellant, nor any documentation regarding where the ointments were to be applied, nor any specific information regarding frequency and amount of applications within the submitted evidence. (Exhibit 5) No resolution was reached between the parties regarding this modification.

Findings of Fact

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

1. The Appellant is a MassHealth member over the age of 65 who seeks prior approval for PCA services. (Testimony, Exhibit 1, Exhibit 5).
2. The Appellant's primary diagnoses include chronic lymphocytic leukemia, congenital spondylolysis, colon polyps, dizziness, anxiety, hand tremors, SOB, DOE. (Testimony, Exhibit 5, pg. 7)
3. Secondary diagnoses include chronic back pain, generalized weakness, cardiac arrhythmia, cataracts, atrial fibrillation, frequent falls, and age-related debility (Testimony, Exhibit 5, pg. 7).
4. Regarding the modification of 1) ADL – Mobility – from 7 minutes, 10 times a day, 7 days a week to 5 minutes, 9 times a day, 7 days a week (Exhibit 5, pgs. 11-12), the Appellant had received 5 minutes, 8 times a day, 7 days a week for Mobility during the previous PCA service period. (Testimony).
5. The Appeal Representative relied upon the in-person evaluation performed to support the requested time, but did not provide any additional information to support the requested

³ In response to questions posed, the Appeal Representative explained that he is not the Appellant's PCA, rather, the Appeal Representative is the Appellant's Surrogate (Testimony)

additional time. (Testimony)

6. Regarding the modification of 2) ADL – Dressing – from 35 minutes, 1 time a day, 7 days a week to 30 minutes, 1 time a day, 7 days a week (Exhibit 5, pgs. 18-19), the Appellant had received 30 minutes, 1 time a day, 7 days a week for Dressing during the previous PCA service period. (Testimony).
7. The Appeal Representative relied upon the in-person evaluation performed to support the requested time but did not provide any additional information to support the requested additional time. (Testimony)
8. Regarding the modification of 3) ADL – Undressing – from 30 minutes, 1 time a day, 7 days a week to 25 minutes, 1 time a day, 7 days a week (Exhibit 5, pgs. 18-19), the Appellant had received 25 minutes, 1 time a day, 7 days a week for Undressing during the previous PCA service period. (Testimony).
9. The Appeal Representative relied upon the in-person evaluation performed to support the requested time but did not provide any additional information to support the requested additional time. (Testimony)
10. Regarding the modification of 4) ADL – Toileting, Bladder Care – from 20 minutes, 12 times a day, 7 days a week to 15 minutes, 8 times a day, 7 days a week (Exhibit 7, pgs. 20-21), the Appellant had received 15 minutes, 8 times a day, 7 days a week for Toileting, Bladder Care during the previous PCA service period. (Testimony). The Appellant has been approved for 8 pads a day, 8 pull-up undergarments a day, as well as 3 liners a day. (Testimony) The Appellant had requested 15 minutes per episode for the nighttime hours which had been approved as requested. (Testimony, Exhibit 5). Transfer to the bathroom is not included within the time for task for Toileting, Bladder Care. (Testimony)
11. The Appeal Representative explained that the Appellant’s bathroom was narrow, and that Appellant utilizes a commode within her bedroom for nighttime toileting. (Testimony). The Appeal Representative relied upon the in-person evaluation performed to support the requested time. (Testimony)
12. Regarding the modification of 5) ADL – Medication Assistance – from 15 minutes, 3 times a day, 7 days a week to 5 minutes, 3 times a day, 7 days a week (Exhibit 5, pgs. 22-23) the Appellant had received 3 minutes, 3 times a day, 7 days a week for Medication Assistance during the previous PCA service period. (Testimony). Only one topical ointment is listed on the Appellant’s medication list. (Testimony, Exhibit 5, pg. 43) Multiple over-the-counter medications were listed within the Appellant’s medication list. (Testimony, Exhibit 5, pg. 43) There is no documentation regarding any additional ointments utilized by the Appellant, nor is there any information regarding where the ointments were to be applied, nor any specific

information regarding frequency and amount to be applied within the submitted evidence. (Exhibit 5)

13. The Appeal Representative explained that there were multiple ointments utilized by the Appellant, however the Appellant's medication list does not include most of the ointments, but does list other over-the-counter medications. (Testimony, Exhibit 5)

Analysis and Conclusions of Law

Personal Care Assistant services requested must meet medical necessity criteria as defined at 130 CMR 450.204, below:

(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.

(B) 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. A provider must make those records, including medical records, available to the MassHealth agency upon request. (See 42 U.S.C. 1396a(a)(30) and 42 CFR 440.230 and 440.260.)

In addition to being medically necessary as defined above, time requested for PCA services must comport with the following guidelines at 130 CMR 422.410:

(A) Activities of Daily Living (ADLs). 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/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 PCA services; and
 - (c) other special needs approved by the MassHealth agency as being instrumental to the health care of the member.

(C) Determining the Number of Hours of Physical Assistance. In determining the number of hours of physical assistance that a member requires under 130 CMR 422.410(B) for IADLs, the PCM agency must assume the following:

(1) When a member is living with family members, the family members will provide assistance with most IADLs. For example, routine laundry, housekeeping, shopping, and meal preparation and clean-up should include those needs of the member.

(2) When a member is living with one or more other members who are authorized for MassHealth PCA services, PCA time for homemaking tasks (such as shopping, housekeeping, laundry, and meal preparation and clean-up) must be calculated on a shared basis.

(3) The MassHealth agency will consider individual circumstances when determining the number of hours of physical assistance that a member requires for IADLs.

The Regulation regarding the requirement of needing assistance with two or more ADLs cited by MassHealth at the Hearing and in the Notice is codified in 130 CMR 422.403(C):

422.403: Eligible Members

(C) MassHealth covers PCA services provided to eligible MassHealth members who can be appropriately cared for in the home when all of 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.

Additionally, the Regulations regarding non-covered services, such as social services, cited by MassHealth at the Hearing and in the Notice is codified in 130 CMR 422.412(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;
- (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 (2007). 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 Commn., 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). Here, the Appellant has not met the burden, by a preponderance of evidence, to show that MassHealth's administrative determination is invalid.

Regarding the modification of 1) ADL – Mobility – from 7 minutes, 10 times a day, 7 days a week to 5 minutes, 9 times a day, 7 days a week (Exhibit 5, pgs. 11-12), the Appellant had received 5 minutes, 8 times a day, 7 days a week for Mobility during the previous PCA service period. (Testimony). The current PCA service period increases the frequency of Mobility from the previous PCA service period. The evidence presented, through the submissions and the testimony of the Appeal Representative, does not explain why the Appellant would need additional time and frequency for Mobility. No convincing additional evidentiary support was provided for the requested additional time and frequency, beyond that which MassHealth has approved. Accordingly, the appeal of modification 1) ADL -Mobility is denied.⁴

Regarding the modification of 2) ADL – Dressing – from 35 minutes, 1 time a day, 7 days a week to 30 minutes, 1 time a day, 7 days a week (Exhibit 5, pgs. 18-19), the Appellant had received 30 minutes, 1 time a day, 7 days a week for Dressing during the previous PCA service period. (Testimony). The Appellant has been approved for the same amount of PCA time in the current PCA service period. The evidence presented, through the submissions and the testimony of the Appeal Representative, does not explain why the Appellant would need additional time for Dressing. No convincing additional evidentiary support was provided for the requested additional time, beyond that which MassHealth has approved. Accordingly, the appeal of modification 2) ADL -Dressing is denied.

Regarding the modification of 3) ADL – Undressing – from 30 minutes, 1 time a day, 7 days a week to 25 minutes, 1 time a day, 7 days a week (Exhibit 5, pgs. 18-19), the Appellant had received 25 minutes, 1 time a day, 7 days a week for Undressing during the previous PCA service period. (Testimony). The Appellant has been approved for the same amount of PCA time in the current PCA service period. The evidence presented, through the submissions and the testimony of the Appeal Representative, does not explain why the Appellant would need additional time for Undressing. No convincing additional evidentiary support was provided for the requested additional time, beyond that which MassHealth has approved. Accordingly, the appeal of modification 3) ADL -Undressing is denied.

Regarding the modification of 4) ADL – Toileting, Bladder Care – from 20 minutes, 12

⁴ The Appellant had stated within the Fair Hearing Request that since the last evaluation in November of 2024, her physical condition had worsened. (Exhibit 2) Within Exhibit 5, there is an undated letter from a nurse suggesting that an increase in PCA time was appropriate. (Exhibit 5, pg. 63) The letter references a conversation with the Appeal Representative that took place on February 19, 2025. The determination under appeal is dated February 20, 2025. This information was not considered or presented during the November 2024 in-person evaluation, nor was it timely submitted to Optum for consideration within this appeal. The letter provides no specific information regarding the need for an increase in time for task PCA services. The Appellant may seek an adjustment through her PCM in accordance with the Regulations, if she so chooses. The Appellant retains the right to appeal future MassHealth determinations.

times a day, 7 days a week to 15 minutes, 8 times a day, 7 days a week (Exhibit 7, pgs. 20-21), the Appellant had received 15 minutes, 8 times a day, 7 days a week for Toileting, Bladder Care during the previous PCA service period. (Testimony). The Appellant has been approved for the same amount of PCA time in the current PCA service period. The evidence presented, through the submissions and the testimony of the Appeal Representative, does not explain why the Appellant would need additional time for Toileting, Bladder Care. No convincing additional evidentiary support was provided for the requested additional time, beyond that which MassHealth has approved. Accordingly, the appeal of modification 4) ADL -Toileting, Bladder Care, is denied.

Regarding the modification of 5) ADL – Medication Assistance – from 15 minutes, 3 times a day, 7 days a week to 5 minutes, 3 times a day, 7 days a week (Exhibit 5, pgs. 22-23), the Appellant had received 3 minutes, 3 times a day, 7 days a week for Medication Assistance during the previous PCA service period. (Testimony). The Appellant has been approved for additional time in the current PCA service period. The evidence presented, through the submissions and the testimony of the Appeal Representative, does not explain why the Appellant would need additional time for Medication Assistance.⁵ No convincing additional evidentiary support was provided for the requested additional time, beyond that which MassHealth has approved. Accordingly, the appeal of modification 5) ADL -Medication Assistance is denied.

Based upon the Record in the instant appeal, including the testimony of the Appeal Representative as well as the submissions, I find that the Appellant has not met the burden, by a preponderance of evidence, to show that MassHealth’s administrative determination is invalid. Accordingly, this appeal is DENIED.

Order for MassHealth

None

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.

⁵ Although stated through testimony that the Appellant requires additional medication in the form of over-the-counter medicated ointments, these ointments are absent from the Appellant’s medication list. (Exhibit 5, pg. 43) No specific information was provided at Hearing regarding the type, nature, frequency, application location, or dosage for the ointments. The Appellant may seek an adjustment through her PCM in accordance with the Regulations, if she so chooses. The Appellant retains the right to appeal future MassHealth determinations.

Patrick Grogan
Hearing Officer
Board of Hearings

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