

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



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| Appeal Decision: | Dismissed in part; Denied in part | Appeal Number: | 2505101 |
| Decision Date: | 05/27/2025 | Hearing Date: | 05/08/2025 |
| Hearing Officer: | Sharon Dehmand | | |

Appearance for Appellant:



Appearance for MassHealth:

Kelly Rayen, R.N., Clinical Reviewer, Optum
Heather Adams, Optum Observer



*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

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|---------------------------|--------------------------------------|--------------------------|---|
| Appeal Decision: | Dismissed in part; Denied in part | Issue: | Prior Authorization; Personal Care Attendant (PCA) Services |
| Decision Date: | 05/27/2025 | Hearing Date: | 05/08/2025 |
| MassHealth's Rep.: | Kelly Rayen, R.N. Heather Adams | Appellant's Rep.: |  |
| Hearing Location: | Remote | 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 March 20, 2025, MassHealth modified the appellant's prior authorization request for personal care attendant (PCA) services. See 130 CMR 450.204; 130 CMR 450.303; 130 CMR 422.410; and Exhibit 1. The appellant filed a timely appeal on March 28, 2025. See 130 CMR 610.015(B) and Exhibit 2. An aid pending protection was put in place to protect the appellant's benefits. A decision regarding the scope or amount of assistance is valid ground for appeal before the Board of Hearings. See 130 CMR 610.032(A)(3).

Action Taken by MassHealth

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

Issue

Whether MassHealth was correct in modifying the appellant's request for PCA services pursuant to 130 CMR 422.410.

Summary of Evidence

All parties participated telephonically. MassHealth was represented by a registered nurse and clinical appeals reviewer. The appellant appeared pro se and verified her identity. The following is a summary of the testimony and evidence provided at the hearing:

The MassHealth representative testified that the documentation submitted shows that the appellant is an adult who has diagnoses of brain tumor, fibromyalgia, seizure disorder, epilepsy, migraines, and osteoporosis. On March 19, 2025, the appellant's personal care management (PCM) agency, [REDACTED], submitted a prior authorization for PCA services requesting 47 hours and 30 minutes for the dates of service of May 10, 2025 to May 9, 2026. On March 20, 2025, MassHealth modified the request to 45 hours and 30 minutes per week. MassHealth made two (2) modifications related to PCA assistance, namely: mobility; and transfers. See generally Exhibit 5.

Based on the testimony at the hearing, the appellant agreed with MassHealth's modification made to time requested for PCA assistance with transfers (3x6x7).¹ The only modification remaining in dispute during the hearing was for the PCA service hours for mobility. The appellant requested 3 minutes, 6 times per day, 7 days per week. MassHealth modified this request to 2 minutes, 6 times per day, 7 days per week because it determined that the time requested is longer than ordinarily required for someone with the appellant's physical needs.

In support of this modification, the MassHealth representative stated that the appellant has a walker and a cane which assists her with mobility inside her home. She referenced the appellant's medical records dated February 3, 2025, and stated that the appellant was determined to be "not a fall risk" and has been classified as requiring a minimum level of assistance. See Exhibit 5, pp. 11 and 40.

The appellant confirmed that she utilizes her walker while walking within her home. She testified that her knees are deteriorating, and she will likely require surgery soon. She stated that it takes her about 15 minutes to walk within her home due to frequent loss of balance. She added that during this time, her PCA may be doing other tasks within her home. The MassHealth representative explained the process for requesting additional PCA service hours in the event of surgery.

Findings of Fact

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

¹ The notation (AxBxC) refers to A minutes per session, B times per day, C days per week.

1. The appellant is an adult who has diagnoses of brain tumor, fibromyalgia, seizure disorder, epilepsy, migraines, and osteoporosis. (Testimony and Exhibit 5).
2. On March 19, 2025, MassHealth received a prior authorization for PCA services requesting 47 hours and 30 minutes for the dates of service of May 10, 2025 to May 9, 2026. (Testimony and Exhibit 5).
3. On March 20, 2025, MassHealth informed the appellant that it had modified the request to 45 hours and 30 minutes per week. (Testimony and Exhibit 1).
4. MassHealth made two (2) modifications related to PCA assistance, namely: mobility; and transfers. (Testimony and Exhibit 1).
5. At the hearing, the appellant agreed with MassHealth's modification made to time requested for PCA assistance with transfers. (Testimony).
6. The appellant requested 3 minutes, 6 times per day, 7 days per week for PCA assistance with mobility. (Testimony and Exhibit 5).
7. MassHealth modified this request and approved 2 minutes, 6 times per day, 7 days per week because it determined that the time requested is longer than ordinarily required for someone with the appellant's physical needs. (Testimony and Exhibit 5).
 - a. The appellant has been classified as requiring a minimum level of assistance. (Testimony and Exhibit 5, p. 11).
8. The appellant filed a timely appeal on March 28, 2025. (Exhibit 2).
9. An aid pending protection was put in place to protect the appellant's benefits.

Analysis and Conclusions of Law

Regulations concerning personal care attendant (PCA) services are found at 130 CMR 422.000, et seq. PCA is defined as a person who is hired by the member or surrogate to provide PCA services. See 130 CMR 422.402. PCA services are physical assistance with activities of daily living (ADLs) and instrumental activities of daily living (IADLs), as described in 130 CMR 422.410. Id.

MassHealth covers personal care 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.²

See 130 CMR 422.403(C).

The regulation concerning ADLs in 130 CMR 422.410 is as follows:

(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.

² 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. See 130 CMR 450.204(A).

Here, there is no dispute that the appellant meets all the requirements to qualify for PCA services. The issue is whether MassHealth allowed sufficient time in accordance with the program regulations.

MassHealth will approve “activity time performed by a PCA in providing assistance.” See 130 CMR 422.411. “Activity time” is defined as the “actual amount of time spent by a PCA physically assisting the member” with his ADLs/IADLs. See 130 CMR 422.402.

At issue in this appeal were modifications of time requested for PCA assistance for the appellant with ADLs. The following ADLs were the subject of modifications: mobility and transfers.

At the hearing, the appellant agreed with MassHealth’s modification made to time requested for PCA assistance with transfers from the requested time of 5 minutes, 6 times per day, 7 days per week to 3 minutes, 6 times per day, 7 days per week. Since the parties reached a resolution regarding this issue, this portion of the appeal is DISMISSED in accordance with 130 CMR 610.035(A)(8).

One modification regarding the requested time for mobility remained in dispute. MassHealth modified the requested time for PCA service hours for mobility to 2 minutes, 6 times per day, 7 days per week because it determined that the time requested is longer than ordinarily required for someone with the appellant’s physical needs.

The MassHealth representative testified that the appellant has a walker and a cane which assists her with mobility inside her home. She referenced the appellant’s medical records dated February 3, 2025, and stated that the appellant was determined to be “not a fall risk” and has been classified as requiring a minimum level of assistance. The appellant confirmed that she uses a walker to ambulate within her home. She testified that it takes her about 15 minutes to walk within her home due to frequent loss of balance. She added that during this time, her PCA may be doing other tasks within her home.

I find that based on this record the appellant has not demonstrated by a preponderance of evidence that the additional PCA service hours of one minute to assist with mobility is medically necessary. See Craven v. State Ethics Comm’n, 390 Mass. 191, 200 (1983)(“[p]roof by a preponderance of the evidence is the standard generally applicable to administrative proceedings”). Per regulation, MassHealth must cover only those medically necessary services that are the least costly option for the agency. See 130 CMR 450.204(A)(2). The appellant’s own testimony demonstrates that she is adequately assisted using a walker and that her PCA may be doing other tasks during the time she is ambulating. Additionally, she was approved for 2 minutes, 6 times per day, 7 days per week for PCA service hours to assist with mobility. As such, MassHealth was correct in modifying the appellant’s request for PCA services pursuant to 130

CMR 422.410.

Accordingly, the appellant's request for additional time for this task is DENIED.

Order for MassHealth

Remove aid pending protection and implement the PA as modified by MassHealth on March 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.

Sharon Dehmand, Esq.
Hearing Officer
Board of Hearings

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