

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Dismissed/Denied	Appeal Number:	2506568
Decision Date:	6/6/2025	Hearing Date:	05/29/2025
Hearing Officer:	Thomas J. Goode		

Appearance for Appellant:



Appearance for MassHealth:

Kelly Rayen, RN, 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:	Dismissed/Denied	Issue:	Prior Authorization: Personal Care Attendant (PCA) Services
Decision Date:	6/6/2025	Hearing Date:	05/29/2025
MassHealth's Rep.:	Kelly Rayen, Optum	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 April 17, 2025, MassHealth modified Appellant's prior authorization request for PCA services (130 CMR 422.000 *et seq.*, 450.204 and Exhibit 1). Appellant filed this appeal in a timely manner on April 28, 2025 and has been receiving aid pending protection (130 CMR 610.015(B), 610.036 and Exhibit 2). Modification of a request for assistance is valid grounds for appeal (130 CMR 610.032).

Action Taken by MassHealth

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

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 422.000 *et seq.*, 130 CMR 450.204, in modifying Appellant's prior authorization request for PCA services.

Summary of Evidence

The MassHealth representative testified that Appellant is a [REDACTED]-year-old male with a history of metastatic breast cancer with lymph node involvement, lumbar disc disease, osteoarthritis of multiple joints, COPD with shortness of breath, hypertension, emphysema, dizziness, vertigo, history of frequent falls, pilonidal cysts, peripheral neuropathy, chronic pain, migraines, anxiety, fatigue, depression, history of grand mal seizures and chemotherapy. Appellant had a recent lung biopsy and CT scan. Appellant is unsteady with ambulation and for mobility uses furniture with contact guard or two canes (Exhibit 4, pp. 7-8). Appellant submitted a request for prior authorization for PCA services totaling 65.25 hours per week. MassHealth modified the request to 45 hours per week. MassHealth modified 13 areas of the prior authorization request. In the previous prior authorization period, Appellant was approved for 63.75 PCA hours. At hearing, the parties resolved modifications in Mobility, Transfers, Hair Washing, Grooming, Weekly Medication Planner, Medication Assistance, Meal Preparation, Undressing, Bladder and Bowel Care, and Shopping, resulting in 47 PCA hours approved by MassHealth.¹

The parties disagreed with regard to PCA time requested for assistance with eating 10 minutes, 3 times per day, 7 days per week, which was modified to 5 minutes, 3 times per day, 7 days per week. The MassHealth representative testified that Appellant is described by the PCM agency as requiring minimal assistance with eating due to poor appetite, peripheral neuropathy, and pain. The MassHealth representative stated that minimal assistance equates to needing 25% assistance with eating and is limited to placing food on a fork or spoon and delivering food to the member's mouth. Wait-time for chewing, cueing and supervision and monitoring for choking or aspiration are not covered services. Appellant is independent with oral care and there is no indication that he cannot physically feed himself. The MassHealth representative testified that PCA time for assistance with eating was approved 5 minutes, 3 times per day, 7 days per week in the previous prior authorization period, and no changes are documented to support the increased time requested.

MassHealth also modified time requested for assistance with dressing 18 minutes, once per day, 7 days per week, which was modified to 15 minutes, once per day, 7 days per week, which was also approved in the previous prior authorization period. The MassHealth representative testified that assistance with dressing involves assisting a member with putting on a shirt, socks, underwear, pants, and shoes. The MassHealth representative testified that Appellant is characterized as maximum assist with dressing; however, 15 minutes is sufficient time for the PCA to complete dressing.

Appellant appeared with his spouse, who testified that she is a registered nurse, and has worked as a PCA. Appellant's spouse testified that it takes 20 minutes for the PCA to dress Appellant because neither she nor Appellant can assist with dressing due to medical conditions and surgeries. She

¹ After a review of each modification at hearing, Appellant accepted the modifications to Mobility: 5 x 5 x 7; Transfers: 3 x 5 x 7; No time for Hair Washing which is included in Bathing; Grooming: 5 x 1 x 7; Undressing: 10 x 1 x 7; Bladder Care 8 x 6 x 7 and Bowel Care 10 x 1 x 7 (Appellant will contact PCM for an increase in frequency for bowel and bladder care); Weekly Medication Planner: 15 x 1 x 7; Medication Administration: 3 x 3 x 7; Meal Preparation: 55 minutes per day; Shopping: increased to 45 minutes per week as requested.

added that Appellant can't lift his left arm over his head, and due to COPD, emphysema, and arthritis, it takes more than 15 minutes for complete dressing. Appellant's spouse noted further that if rushed, it can trigger seizure activity and result in excessive coughing while Appellant moves. With regard to assistance with eating, Appellant's spouse testified that 10 minutes 3 times per day is required because it takes Appellant longer to swallow and he chokes on food which puts him at risk for aspiration. She added that Appellant is independent with oral care, but that is limited to putting in his dentures.

Findings of Fact

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

1. Appellant is a ■-year-old male with a history of metastatic breast cancer with lymph node involvement, lumbar disc disease, osteoarthritis of multiple joints, COPD with shortness of breath, hypertension, emphysema, dizziness, vertigo, history of frequent falls, pilonidal cysts, peripheral neuropathy, chronic pain, migraines, anxiety, fatigue, depression, history of grand mal seizures and chemotherapy. Appellant has had a recent lung biopsy and CT scan.
2. Appellant is unsteady with ambulation, and for mobility uses furniture with contact guard or two canes.
3. Appellant submitted a request for prior authorization for PCA services totaling 65.25 hours per week. MassHealth modified the request to 45 hours per week.
4. In the previous prior authorization period, Appellant was approved for 63.75 PCA hours.
5. MassHealth modified 13 areas of the prior authorization request. At hearing, the parties resolved modifications in Mobility, Transfers, Hair Washing, Grooming, Weekly Medication Planner, Medication Assistance, Meal Preparation, Bladder and Bowel Care, and Shopping resulting in 47 PCA hours approved by MassHealth.
6. PCA time for assistance with eating was requested 10 minutes, 3 times per day, 7 days per week, which was modified to 5 minutes, 3 times per day, 7 days per week.
7. PCA time for assistance with eating was approved 5 minutes, 3 times per day, 7 days per week in the previous prior authorization period.
8. Appellant is described by the PCM agency as requiring minimal assistance with eating due to poor appetite, peripheral neuropathy, and pain.

9. Appellant is independent with oral care and there is no indication that he cannot physically feed himself.
10. MassHealth modified time for assistance with dressing requested 18 minutes, once per day, 7 days per week, to 15 minutes, once per day, 7 days per week which was also approved in the previous prior authorization period.
11. Appellant is characterized by the PCM agency as maximum assist with dressing.

Analysis and Conclusions of Law

The PCA program provides assistance with the following:²

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.

(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

² See also PCA Consumer Handbook available at: <https://www.mass.gov/doc/pca-consumer-handbook-personal-care-attendant-program/download>.

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.

422.411: Covered Services

(A) MassHealth covers activity time performed by a PCA in providing assistance with ADLs and IADLs as described in 130 CMR 422.410, as specified in the evaluation described in 130 CMR 422.422(C) and (D), and as authorized by the MassHealth agency.

422.412: Noncovered 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.

Prior authorization determines only the medical necessity of the authorized service and does not establish or waive any other prerequisites for payment such as member eligibility or utilization of other potential sources of health care as described in 130 CMR 503.007: *Potential Sources of Health Care* and 517.008: *Potential Sources of Health Care*. See 130 CMR 422.416.

130 CMR 450.204: Medical Necessity

The MassHealth agency does not pay a provider for services that are not medically necessary.

(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: *Potential Sources of Health Care*, or 517.007: *Utilization of Potential Benefits*.

Appellant has the burden "to demonstrate the invalidity of the administrative determination." See *Andrews vs. Division of Medical Assistance*, 68 Mass. App. Ct. 228. Moreover, the burden is on the appealing party to demonstrate the invalidity of the administrative determination. See *Fisch v. Board of Registration in Med.*, 437 Mass. 128, 131 Page 9 of Appeal No.: 2309752 (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).

MassHealth modified 13 areas of the prior authorization request. At hearing, the parties resolved modifications in Mobility, Transfers, Hair Washing, Grooming, Weekly Medication Planner, Medication Assistance, Undressing, Meal Preparation, Bladder and Bowel Care, and Shopping.³ Regarding these modifications, the parties have reached resolution, and pursuant to 130 CMR 610.051, 610.035(A)(8), issues involving these modifications are DISMISSED.

The remaining issues are limited to PCA time requested for assistance with dressing and eating. Regarding dressing, Appellant's spouse testified that although 18 minutes was requested, it takes 20 minutes to dress Appellant primarily because his medical conditions prevent him from assisting with dressing and requires the PCA to pause and wait for Appellant while dressing to prevent over exertion. The PCA request includes comments that Appellant requires increased time for dressing to 18 minutes because he is unable to assist with dressing, retrieve, or transport clothing, and has very poor endurance (Exhibit 4, p. 18). However, in calculating time for dressing, Appellant is not expected to retrieve or transport his clothing which would be done by the PCA. PCA time to dress Appellant includes putting on underwear, a shirt, pants, socks and shoes and is limited to the time necessary for the PCA to complete the physical hands-on task and does not include pauses or wait time. In the previous prior authorization period, 15 minutes was approved for dressing. MassHealth recognized that Appellant continues to require maximum assistance with dressing, and the MassHealth testimony is credible that 15 minutes for the PCA to complete dressing is medically necessary. Because Appellant has not carried the burden in showing that 18 minutes, excluding pause and wait-time, is medically necessary to complete dressing, the modification is upheld.

Regarding PCA time for assistance with eating, Appellant is characterized by the PCM agency as requiring minimal assistance. Appellant is able to place food on a utensil and bring the food to his mouth. Appellant's spouse testified that additional time is needed because Appellant takes longer to swallow and is at risk for choking and aspiration. PCA time for eating is limited to physically assisting a member to eat and does not include time to monitor for possible choking or aspiration, which is beyond the scope of the PCA program. Because Appellant has not carried the burden in showing that 10 minutes is medically necessary for assistance with eating, the modification is upheld.

Regarding modifications to PCA time for assistance with eating and dressing, the appeal is DENIED.

Order for MassHealth

Rescind aid pending protection and approve 47 PCA hours per week.

³ See fn. 1.

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.

Thomas J. Goode
Hearing Officer
Board of Hearings

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