

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied in part; Dismissed in part	<b>Appeal Number:</b>	2506737
<b>Decision Date:</b>	06/12/2025	<b>Hearing Date:</b>	06/09/2025
<b>Hearing Officer:</b>	Amy B. Kullar, Esq.		

**Appearance for Appellant:**



**Appearance for MassHealth:**

Kelly Rayen, R.N., Clinical Reviewer, 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

<b>Appeal Decision:</b>	Denied in part; Dismissed in part	<b>Issue:</b>	Prior Authorization; Personal Care Attendant Services
<b>Decision Date:</b>	06/12/2025	<b>Hearing Date:</b>	06/09/2025
<b>MassHealth's Rep.:</b>	Kelly Rayen, R.N.	<b>Appellant's Rep.:</b>	██████
<b>Hearing Location:</b>	Quincy Harbor South 1 (Telephone)	<b>Aid Pending:</b>	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 11, 2025, MassHealth modified the appellant's prior authorization request for personal care attendant services. *See* 130 CMR 450.024(A), 130 CMR 422.410(A)(7), 130 CMR 422.410(B)(1) and Exhibit 1. The appellant filed this appeal in a timely manner on April 29, 2025. *See* 130 CMR 610.015(B) and Exhibit 2. MassHealth's decision to restrict or modify a member's assistance is valid grounds for appeal. *See* 130 CMR 610.032.

### Action Taken by MassHealth

MassHealth modified the appellant's prior authorization request for personal care attendant (PCA) services.

### Issue

The appeal issue is whether MassHealth was acting within its discretion in modifying the appellant's prior authorization request for PCA services.

## Summary of Evidence

The MassHealth representative appeared via telephone and identified herself as registered nurse and clinical appeals reviewer. The appellant is a MassHealth member between the ages of 19-65 and was represented at hearing by his mother, who is also one of his legal guardians. The parties' testimony and record evidence are summarized as follows:

The appellant's medical history includes a primary diagnosis of autism, developmental delays with resistant behaviors, pectus carinatum, tachycardia, ADHD, anxiety, and severe food allergies and food aversions. Testimony and Exhibit 4. The appellant lives at home with his parents, who are his legal guardians, and his sibling, and he attends a program in the community every day. Testimony and Exhibit 4.

The appellant was reevaluated for PCA services on April 6, 2025, and on April 10, 2025, his PCM agency, Northeast Arc, Inc., requested 19 hours and 15 minutes per week of PCA services for the period of 05/26/2025 to 05/25/2026. MassHealth modified this request on November 13, 2024, to 15 hours and 15 minutes per week for the service period of 05/26/2025 to 05/25/2026. Testimony, Exhibit 4. MassHealth made three (3) modifications related to PCA assistance with bowel care, other healthcare needs (wound care), and meal preparation and cleanup.

After testimony and additional information were disclosed at hearing, MassHealth and the appellant's mother came to an agreement on the following category: bowel care. This activity involves assisting with hygiene and clothing after the appellant moves his bowels. The appellant's PCM agency requested ten minutes per episode, two times per day, seven days per week (10x2x7). MassHealth modified this request to five minutes per episode, two times per day, seven days per week (5x2x7). After discussion between the MassHealth representative and the appellant's mother, it was agreed that this category would be approved at seven minutes per episode, two times per day, seven days per week (7x2x7). Therefore, with both parties in agreement, the category of bowel care is no longer in dispute.

The remaining disputed categories are other healthcare needs (wound care), and meal preparation and cleanup.

### Other Healthcare Needs (wound care)

The MassHealth representative testified that five minutes per day, two times per day, seven days per week (5x2x7) was requested for the appellant's other healthcare needs. In this case, the "other healthcare needs" are wound care for the appellant's "severe ingrown toenails." Testimony. MassHealth modified this request to zero because the requested task is skilled nursing. The MassHealth representative explained that monitoring a wound and performing wound care is outside of the scope of the PCA program. A PCA is not authorized to perform nursing-like tasks which require assessment. This task as requested "sounds like this is something more that would

be podiatrist related and does not fall under the PCA program. It would be a skilled nursing task to ensure that a wound that has chronic infections would have assessment, treatment plan and ensure that it was healing properly.” Testimony.

In response to this testimony, the appellant’s mother stated that her son experiences chronic ingrown toenails and fungal infections because he insists on wearing socks twenty-four hours per day, and his feet become sweaty and unhygienic, leading to frequent infections on his toes. The appellant’s mother stated that she applies antifungal ointment and personally performs any “wound care.” Her son has seen a podiatrist in the past for this issue. The appellant’s mother stated she performs this wound care routine two to three times per week: she removes his socks, inspects affected areas, ensures the area is dry, applies ointments, and maintains her son’s nail hygiene. She emphasized that this is preventive care, not acute care. In response, the MassHealth representative stated that the application of medication and monitoring and assessing a wound are skilled nursing tasks. A PCA may not perform tasks that are professionally recognized for licensed nurses. Testimony.

#### Meal Preparation and Cleanup

The MassHealth representative testified that fifty minutes per day, five days per week (50x1x5) was requested for meal preparation and cleanup. MassHealth modified this request to thirty minutes per day, five days per week because the consumer lives with his legal guardians and MassHealth expects legal guardians to provide non-reimbursable assistance with instrumental activities of daily living (IADLs). The time that is authorized is to provide some PCA assistance to the legal guardian for breakfast, lunch and snacks. The MassHealth representative understands that the appellant’s father does work outside of the home and that the appellant’s mother does have her own health issues, but the time that is authorized is for the PCA to provide some assistance to the legal guardian with meal preparation and cleanup, but not for the PCA to do the entire preparation.

The appellant’s mother stated that she wanted to emphasize that her son suffers from severe allergies to multiple foods. He also has a food aversion and he’s very picky about what he eats. He eats dinner much earlier than the rest of the family, and his meal is usually cooked separately. The MassHealth representative stated that the PCA program does not cover the actual cooking time; she said it’s just the time to prepare the food for cooking. She does not understand how the legal guardians can prepare all the appellant’s meals on the weekend, but cannot do so during the week with PCA assistance. Testimony. In response to this testimony, the appellant’s mother stated, “with the physical problems that I’m having, medical issues that I’m having, I get tired too, and I’m in pain all the time. It would be great if I can get some PCA help to help, because then I wouldn’t have to be subjecting myself to that type of pain, even more pain.” Testimony.

## Findings of Fact

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

1. Appellant is a MassHealth member between the ages of 19 and 65, and lives in the community with his mother, father, and sibling.
2. Appellant has a primary diagnosis of autism, with developmental delays with resistant behaviors, pectus carinatum, tachycardia, ADHD, anxiety, and severe food allergies and food aversions. Testimony and Exhibit 4.
3. On April 10, 2025, appellant's PCM agency sent MassHealth a PA request seeking 19 hours and 15 minutes per week of PCA assistance for the period of 05/26/2025 to 05/25/2026. Testimony and Exhibit 4.
4. On April 11, 2025, MassHealth modified the request in three (3) categories and approved the appellant for 15 hours and 15 minutes per week for the service period of 05/26/2025 to 05/25/2026; specifically, by modifying the time for "bowel care, other healthcare needs (wound care), and meal preparation and cleanup." Exhibits 1 and 4.
5. At hearing, MassHealth the appellant's mother resolved their dispute as to the bowel care category and agreed that this category would be approved at seven minutes per episode, two times per day, seven days per week (7x2x7), resolving the dispute related to PCA assistance with this task. Testimony.
6. The appellant seeks PCA assistance time with other healthcare needs (wound care) as follows: five minutes per day, two episodes per day, seven days per week (5x2x7). Testimony and Exhibit 4.
7. MassHealth approved zero minutes for PCA assistance with other healthcare needs (wound care). Testimony and Exhibit 4.
8. The appellant seeks PCA assistance time with meal preparation and cleanup as follows: fifty minutes per day, five days per week (50x1x5). Testimony and Exhibit 4.
9. MassHealth approved thirty minutes per day for PCA assistance with meal preparation and cleanup five days per week (30x1x5). Testimony and Exhibit 4.
10. The appellant resides in a household with his legal guardians. Testimony and Exhibit 4.

## 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 of 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.

*See* 130 CMR 422.403(C).

Here, there is no dispute that appellant meets all the prerequisites to qualify for PCA services. This appeal addresses whether MassHealth allotted sufficient time, in accordance with program regulations, for appellant to receive PCA assistance to meet his care needs. The requested services must also be medically necessary for the prior authorization request to be approved. 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 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 Division. Services that are less costly to the Division include, but are not limited to, health care reasonably known by the provider or identified by the Division 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 Division upon request. (See 42 U.S.C. 1396a(a)(30) and 42 CFR 440.230 and 440.260.)
- (C) A provider's opinion or clinical determination that a service is not medically necessary does not constitute an action by the MassHealth agency.

See 130 CMR 450.204.

Pursuant to 130 CMR 422.410(A), 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.

Pursuant to 130 CMR 422.410(B), 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.

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;
- (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.

See 130 CMR 422.412 (emphases added).

The appeal is dismissed as to PCA assistance with bowel care because at hearing, the parties were able to resolve the dispute in this category of PCA assistance. MassHealth and the appellant's representative agreed to seven minutes per episode, two times per day, seven days per week (7x2x7) for PCA assistance with bowel care, which resolved the dispute related to PCA assistance with this task.

This portion of the appeal is therefore DISMISSED.

As to the appellant's request for PCA assistance with other healthcare needs (wound care), this portion of the appeal is denied. The appellant requested five minutes per day, two episodes per



day, seven days per week (5x2x7) for the appellant's mother or PCA to apply medicated ointment and monitor the appellant's ingrown toenails. MassHealth modified this request to zero minutes per week because MassHealth determined that the task as requested is skilled nursing. MassHealth did not err in modifying this request. The testimony of the MassHealth representative was persuasive and she credibly described the difference between a simple bandage change and the type of assessment, monitoring, and treatment that the appellant's mother described as being performed by the PCA. This task cannot be approved as requested because a PCA is not authorized to perform nursing-like tasks which require assessment.

Furthermore, it was the testimony of the appellant's mother that this task is performed 2 to 3 times per week, not the twice daily episodes that were requested by appellant's PCM. It was not clear from the record or testimony as to why daily wound care was requested when it was the testimony of the appellant's guardian that this task is performed only 2-3 times per week.

This portion of the appeal is therefore DENIED.

As to the appellant's request for PCA assistance with meal preparation and cleanup, this portion of the appeal is denied. The appellant requested fifty minutes per day, five days per week (50x1x5) for PCA assistance with meal preparation and cleanup. MassHealth correctly modified this request to thirty minutes per day, five days per week (30x1x5) because the record shows that appellant resides with his legal guardians and attends a daily program in the community. Although the appellant's mother credibly testified to the appellant's food allergies and aversions, the regulations direct that MassHealth does not cover PCA assistance provided by family members or surrogates.

This portion of the appeal is therefore also DENIED.

## **Order for MassHealth**

Remove aid pending.

For the prior authorization period 05/26/2025 to 05/25/2026, approve the following amounts of PCA assistance for the appellant:

- Bowel care: 7x2x7 (98 minutes per week);
- Other healthcare needs (wound care): zero minutes per week;
- Meal preparation: 30x1x5 (150 minutes per week).

## 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.

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Amy B. Kullar, Esq.  
Hearing Officer  
Board of Hearings

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