

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



**Appeal Decision:** Denied in part;  
Dismissed in part

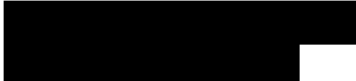
**Appeal Number:** 2508118

**Decision Date:** 06/27/2025

**Hearing Date:** 6/25/2025

**Hearing Officer:** David Jacobs

**Appearances for Appellant:**




**Appearance for MassHealth:**

Kelly Rayen, RN



*Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
Office of Medicaid  
Board of Hearings  
100 Hancock Street  
Quincy, MA 02171*

## APPEAL DECISION

|                          |                                      |                       |   |
|--------------------------|--------------------------------------|-----------------------|---|
| <b>Appeal Decision:</b>  | Denied in part;<br>Dismissed in part | <b>Issue:</b>         | Prior Authorization<br>(PCA Services)   |
| <b>Decision Date:</b>    | 06/27/2025                           | <b>Hearing Date:</b>  | 6/25/2025   |
| <b>MassHealth Rep:</b>   | Kelly Rayen, RN                      | <b>Appellant Rep:</b> |  |
| <b>Hearing Location:</b> | Board of Hearings<br>(Remote)        | <b>Aid Pending:</b>   | No  |

### Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapters 118E and 30A, and the rules and regulations promulgated thereunder.

### Jurisdiction

Through a notice dated March 4, 2025, MassHealth modified the appellant's request for personal care attendant (PCA) services (130 CMR 422.410) (Exhibit 1). The appellant filed a timely appeal on May 27, 2025. (Exhibit 2 and 130 CMR 610.015(B)). The modification of a request for PCA services is a valid basis for appeal (130 CMR 610.032).

### Action Taken by MassHealth

MassHealth modified the appellant's request for PCA services.

### Issue

The appeal issue is whether the appellant has demonstrated the medical necessity of the services that were modified.

## Summary of Evidence

MassHealth was represented at the hearing by a registered nurse who testified telephonically to the following factual background: The appellant is a male under the age of 21 whose provider, [REDACTED] submitted a request for PCA services on his behalf. The record shows that the appellant has a primary diagnosis of [REDACTED] (Exhibit 4, pgs. 8-9). On March 20, 2025, MassHealth received a reevaluation request for PCA services. The appellant seeks PCA services in the amount of 45 hours per week. On March 24, 2025, MassHealth modified the request and authorized 42 hours, 45 minutes per week. Three modifications were made by MassHealth. The appellant's mother and brother appeared telephonically on behalf of the appellant. The appellant's brother is the PCA. The appellant's mother was Spanish speaking, and her testimony was interpreted by the brother.

### 1. Mobility Transfers (Exhibit 4, pg. 12-13)

For the mobility transfers, the evaluating nurse's notes indicate that *"Consumer requires assist with all transfers and mobility within the home. He has a manual wheelchair and stroller and needs assist to propel wheelchair/stroller place to place in home. Surrogate reports he is able to roll on the floor a little bit, but is non ambulatory. Consumer requires assist with transfers, lift/carry, in and out of bed, to and from wheelchair, stroller, floor mats and all surfaces in home due to [REDACTED] s. Surrogate reports frequent changes of position for comfort and so consumer can be with family members. Surrogate reports transfers taking longer due to increased stiffness, decreased flexibility since spinal surgery with rod placement. Observed consumer up in manual wheelchair, secured, feet on footrests, with AFO's on bilateral legs and hand mitts on both hands. Consumer vocalizing intermittently, and RN observed full body tremors and constant movement. Mother needed to wipe face several times during evaluation. Consumer smiled at Mother and brother when spoken to"* (Exhibit 4, pg. 13).

The appellant requested PCA assistance of 3 minutes, 8 times a day, 7 days a week (Exhibit 4, pg. 12). MassHealth modified this request to 2 minutes, 8 times a day, 7 days a week (Exhibit 1). The MassHealth representative testified that the requested time was more time than ordinarily allowed as the time is for the appellant to only be transferred to and from his wheelchair and bed. The appellant's brother testified for himself and by interpreting for his mother that the appellant weighs 105 pounds and is about 5 and a half feet tall. He stated that the appellant had spinal surgery last year for scoliosis that has made him more uncomfortable when being transferred, causing more time to be needed. The appellant moves around a lot when being transferred, which also causes difficulty. He also stated that the appellant is dead weight in his arms while moving him and that the house is very small, so it is difficult to move him from room to room. MassHealth responded that all requests for mobility between rooms were approved. This task is only for moving the appellant from his bed to his wheelchair, from his wheelchair to the floor, and back again. She was incredulous that it would take more than 2 minutes for the brother to move a 105-pound boy from the bed to the wheelchair and similar.

## **2. Bathing (Exhibit 4, pg. 16)**

For the bathing, the evaluating nurse's notes indicate that *"Consumer is dependent for complete set up and clean up of task, including turning on water and temperature regulation. He requires assist with transfer from wheelchair to and from mesh bath chair, and assist to secure with multiple Velcro straps. He is dependent for all wash, shampoo, rinse and towel dry due to Cri du Chat Syndrome, Cerebral Palsy and developmental delay. Surrogate reports he does not participate with bathing task. Surrogate reports increased time needed for transfers in and out of mesh bath chair since surgery"* (Exhibit 4, pg. 16).

The appellant requested PCA assistance of 35 minutes, 1 time a day, 7 days a week (Exhibit 4, pg. 15). MassHealth modified this request to 30 minutes, 1 time a day, 7 days a week (Exhibit 1). The MassHealth representative testified that the requested time was more time than ordinarily allowed, and the appellant only requested 30 minutes last year. The appellant's brother, once again testifying for himself and interpreting for his mother, argued that more time is necessary this year because the appellant is recovering from surgery in [REDACTED] and has increased discomfort which makes the bathing task slower. He testified that often he has to stop bathing the appellant in order to allow him to get more comfortable as he has increased sensitivity to his back from the surgery. MassHealth was incredulous that the surgery could be affecting the appellant's needs so much when the surgery was 10 months ago and only 30 minutes were requested the year prior while the appellant's recovery from surgery was more acute. Moreover, she argued that the waiting time for the appellant to become more comfortable is a non-covered service.

## **3. Bladder Care (Exhibit 4, pg. 22)**

The parties were able to resolve the dispute regarding the toileting task of bladder care. The appellant agreed to accept the time as modified and ask for an adjustment for more bowel care time. Therefore, the appeal is dismissed as to this issue.

## **Findings of Fact**

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

1. The appellant is a male under 21 years of age with primary diagnosis of [REDACTED]
2. On March 20, 2025, the appellant submitted a reevaluation request for PCA services in the amount of 45 hours per week.
3. On March 24, 2025, MassHealth modified the request and authorized 42 hours, 45 minutes per week.
4. At hearing, the parties were able to resolve disputes regarding time for PCA assistance for bladder care.

5. The parties were unable to resolve disputes regarding mobility transfers and bathing.
6. The appellant requested time for PCA assistance with mobility transfers as follows: 3 minutes, 8 times a day, 7 days a week; MassHealth modified this time to: 2 minutes, 8 times a day, 7 days a week.
7. The appellant is approximately [REDACTED] in height, and [REDACTED]
8. The task of mobility transfers involves moving the appellant from the bed to his wheelchair, his wheelchair to the floor, and back again.
9. The appellant requires maximum assistance for mobility transfers.
10. The appellant had scoliosis surgery on his spine in [REDACTED]
11. The appellant requested time for PCA assistance with bathing as follows: 35 minutes, 1 time a day, 7 days a week; MassHealth modified this time to: 30 minutes, 1 time a day, 7 days a week.
12. The appellant is totally dependent on others for bathing.
13. The appellant requested 30 minutes of PCA time per day for bathing last year.

## **Analysis and Conclusions of Law**

Regulations concerning PCA Services are found at 130 CMR 422.000, *et seq.* PCA services are physical assistance with ADLs and IADLs, as described in 130 CMR 422.410. Pursuant to 130 CMR 422.403(C), MassHealth covers PCA services when (1) they 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 ADLs as defined in 130 CMR 422.410(A); and (4) MassHealth has determined that the PCA services are medically necessary.

ADLs and IADLs are addressed in 130 CMR 422.410, which provides as follows:

(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 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.

(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 personal care services; and
  - (c) other special needs approved by MassHealth as being instrumental to the health care of the member.

By regulation, MassHealth will not pay a provider for services that are not medically necessary. Pursuant to 130 CMR 450.204(A), a service is considered “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 or cause to aggravate a handicap, or result in illness or infirmity; and
- (2) there is no other medical services 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]. . . .

#### 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.

(Emphasis added)

### **Mobility Transfers**

The appellant disputes MassHealth's modification of the time modified for PCA assistance with mobility transfers which involves transfers between bed and wheelchair, and between floor and wheelchair.

The appellant has failed to demonstrate that 2 minutes, 8 times a day, 7 days of a week is insufficient to meet his needs. The appellant's representatives did not submit any medical documentation to support their argument that they need a full 3 minutes to carry out each transfer. Rather, they provided testimony that the appellant struggles with discomfort and is also heavy. This testimony, while credible, is not sufficient to demonstrate that the appellant's transfer needs go beyond what MassHealth has determined are ordinarily required. The appellant weighs only [REDACTED] and is of average height. Moreover, the appellant's representatives gave conflicting testimony over their understanding of this task. Several times during the testimony they mistook the task for the mobility task of how much time it takes to move the appellant around the house. The appellant's brother testified that their house is small, and it can take extra time to move him around it. All time for transfers from room to room was approved as requested by MassHealth (Exhibit 4, pgs. 12-13). This potential misunderstanding weakens the representatives' argument, as it is possible that some of the time they were considering for mobility transfers was actually time

for mobility.

Therefore, the appellant has not shown that the requested time of 3 minutes, 8 times a day, 7 days per week is medically necessary. The appeal is DENIED for the task of Mobility Transfers.

### **Bathing**

The appellant disputes MassHealth's modification of the time modified for PCA assistance with bathing.

The appellant has failed to demonstrate that 30 minutes, 1 time a day, 7 days of a week is insufficient to meet his needs. MassHealth testified that the appellant requested 30 minutes per day last year and inquired about why that time is currently insufficient now. The appellant's representatives primarily relied on the fact that the appellant had spinal surgery in September 2024 to justify why the extra bathing time is needed. They testified that the appellant has extra sensitivity on his back where the surgery took place and that often the appellant's brother has to stop the bath and wait for the appellant to get comfortable again before he can continue. MassHealth accurately pointed out that in accordance with 130 CMR 422.412(C), supervision is a non-covered service. MassHealth will also not cover the additional time the PCA is waiting for the appellant to get comfortable. Lastly, MassHealth persuasively pointed out that the request for increased time would have made more sense last year, when the appellant was recovering from surgery. The appellant is now 10 months out from surgery and has not sufficiently demonstrated why 30 minutes will not meet his needs.

Therefore, the appellant has not shown that the requested time of 35 minutes, 1 time a day, 7 days per week, is medically necessary. The appeal is DENIED for the task of Bathing.

## **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.

---

David Jacobs  
Hearing Officer  
Board of Hearings

cc: Optum