Office of Medicaid
BOARD OF HEARINGS

Appellant Name and Address:

[redacted]

Appeal Decision:	Denied	**Appeal Number:**	2508268
Decision Date:	7/23/2025	**Hearing Date:**	07/10/2025
Hearing Officer:	Thomas J. Goode		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Robin Brown, 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:	Denied	**Issue:**	Prior Authorization-Personal Care Attendant (PCA) Services
Decision Date:	7/23/2025	**Hearing Date:**	07/10/2025
MassHealth's Rep.:	Robin Brown	**Appellant's Rep.:**	Pro se
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 May 5, 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 May 29, 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

MassHealth was represented by an occupational therapist and clinical appeals reviewer who appeared by telephone and testified that a prior authorization reevaluation for personal care attendant (PCA) services was submitted to MassHealth on April 28, 2025 by [redacted] requesting 131 hours of PCA services per week. By notice dated May 5, 2025, the request for PCA services was modified to 118 hours. The prior authorization period is from June 1, 2025 through May 31, 2026. Appellant is currently receiving 123.75 PCA hours which is in aid pending status during the pendency of the appeal. Appellant is [redacted] years old and is diagnosed with spinal cord injury C3-C4 quadriplegia with an onset date of January 1986. Appellant's recent medical history includes respiratory illness in January 2025 resulting in increased need for BiPAP therapy throughout the day instead of just at night. New diagnoses include anemia requiring iron infusions, and unstable blood pressure, with erratic blood pressure highs and lows creating safety issues as consumer becomes faint with head dropping. Urologic issues continue with chronic urinary tract infections, and a history of urosepsis. The PCA is noted to be taking blood pressure readings up to 8 times per day. The prior authorization request was modified in 6 areas: medication administration, assistance with nebulizers, blood pressure monitoring, insertion and removal of contact lenses, wound care, and changing bed linens between the hours of midnight and 6 a.m. MassHealth reversed modifications to PCA time requested for insertion and removal of contact lenses 5 minutes, twice per day, 7 days per week and approved the time as requested. Appellant acknowledged that time requested for changing bed linens was not needed and agreed with the modification reducing the requested PCA time by 20 minutes once per night between midnight and 6 a.m. Appellant also agreed to the modification of 15 minutes PCA time requested for assistance with nebulizer treatments between midnight and 6 a.m., which was modified to 5 minutes once per night.

Medication Administration:

PCA time for assistance with instilling medications into the bladder by catheter was requested 15 minutes once per day, 4 days per week. Appellant receives two antibiotics instilled into the bladder by catheter 4 times per week, and PCA time was requested for instilling and draining antibiotics, cleaning up, and personal hygiene and clothing management (Exhibit 4, p. 27). A letter was submitted explaining the task and states that Appellant has chronic multi-resistant organisms in the urinary tract, and the urologist has prescribed two antibiotics to be instilled in the bladder via straight catheterization two days per week for each medication. The PCA is to perform straight catheterization after Appellant is transferred to bed. The appropriate antibiotic is then instilled into the bladder and left to dwell for a prescribed time after which Appellant is recatheterized to drain the antibiotic out of the bladder. The PCA provides personal hygiene, clothing management, empties the container and cleans up after the procedure, after which Appellant is transferred back to a wheelchair. (See Exhibit 4, p. 53) The MassHealth representative testified that instilling medication into the bladder by catheter is not a PCA task under MassHealth regulations and does not meet the standard of care for the PCA program. The MassHealth representative testified that PCAs are not allowed to perform skilled tasks that require a level of training associated with skilled nursing care. She added that PCAs are allowed to perform only unskilled tasks related to the performance of

activities of daily living (ADLs) and instrumental activities of daily living (IADLs). The MassHealth representative testified that the same services were requested and denied for the same reasons in the previous prior authorization request. She added that family members can be trained by physicians to perform some skilled tasks, but the PCA program cannot be billed for the completion of skilled nursing services which cannot be delegated to a PCA and are generally described at 130 CMR 438.410 (A)(1) and (A)(2), and 244 CMR 305, Section 2.

Appellant testified that he has been receiving PCA services since 1987, and his mother and two other PCAs who have worked with him for the last [redacted] years were trained by his physician to administer antibiotics by catheter and have been performing the task for the past [redacted] years. He added that if he does not receive the antibiotics, he will be hospitalized. Appellant added that he does not have nursing services, and does not want to initiate nursing services because the PCAs are trained and probably better able to complete the task than a nurse. He added that there has never been a problem with the PCAs administering the antibiotics by catheter, and the services should be approved.

Blood Pressure Monitoring

The MassHealth representative testified that PCA time for documenting blood pressure was requested 2 minutes, 8 times per day, 7 days per week. The request was deferred for clarification, and a letter was submitted explaining the task (Exhibit 4, p. 53). The deferral letter states that autonomic dysreflexia causes Appellant's blood pressure to fluctuate, and the wide fluctuations have been more dramatic in the past year resulting in Appellant having dangerously high blood pressure and then dropping to a hypotensive state at which time he has become faint with head dropping forward with potential to impede respiratory status. Appellant has medications that can be administered for these fluctuations, so close monitoring up to 8 times per day is necessary. The PCA maintains a log of blood pressure readings, which was shown to the nurse during the evaluation, for physicians to determine changes or referrals needed to address the issue. Monitoring blood pressure frequently can assist in preventing the wide swings of blood pressure with interventions before blood pressure is critically low. (See Exhibit 4, p. 53) The MassHealth representative testified that PCA time for blood pressure monitoring was approved 2 minutes, twice per day, 7 days per week. She stated that data collection can be an unskilled task; however, recording blood pressure readings to inform Appellant how much medication to take to control fluctuations in blood pressure is a skilled nursing task that is outside the scope of the PCA program. The MassHealth representative testified that the information provided shows that the PCAs are not just recording blood pressure readings, but also medical decisions related to how much medication to take are being made based on the data, which is a skilled nursing service. She added that family members can be trained by physicians to perform some skilled tasks, but the PCA program cannot be billed for the completion of skilled nursing services generally described at 130 CMR 438.410 (A)(1) and (A)(2), and 244 CMR 305, Section 2.

Appellant testified that his blood pressure has recently become an issue that requires frequent

monitoring. He added that he is prescribed two different medications to control his blood pressure. The PCAs monitor his blood pressure to make sure he doesn't take too much or too little of either blood pressure medication.

Wound Care

The MassHealth representative testified that PCA time for wound care was requested 10 minutes, twice per day, 7 days per week due to chronic ischial wounds that require removal of dressings, cleaning, and replacing dressings. A deferral letter states that chronic wounds to ischial area require that the PCA remove old dressings, clean wounds, apply necessary ointments, and redress the wounds to prevent further skin deterioration and infection. The deferral letter attributes the need for PCA time for this task to the absence of other outside services leaving the PCA responsible to perform the task as part of Appellant's care. (Exhibit 4, p. 53) The MassHealth representative testified that a PCA can change a band aid or other dry dressing, but chronic would care is a skilled task not covered by the PCA program. PCA time for wound care was not requested in the previous prior authorization period, and the service requested for chronic wound care is a nursing skilled service and not a PCA level task.

Appellant testified that he goes to the wound care center at [redacted] Hospital and has been told he might require surgery related to wound care; however, because the PCAs have been doing wound care for the past [redacted] years, he has been doing well, and surgery has not needed. Appellant testified that he does not want to start nursing services because the PCAs are able to do the services he requires. Appellant added that the PCA services requested are not new services and have been approved by MassHealth for many years.

Findings of Fact

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

1. A prior authorization reevaluation for personal care attendant (PCA) services was submitted to MassHealth on April 28, 2025 by [redacted] requesting 131 hours of PCA services per week.

2. The prior authorization period is from June 1, 2025 through May 31, 2026.

3. By notice dated May 5, 2025, the request for PCA services was modified to 118 hours. Appellant is currently receiving 123.75 PCA hours which is in aid pending status during the pendency of the appeal.
4. Appellant is [redacted] years old and is diagnosed with spinal cord injury C3-C4 quadriplegia with an onset date of January 1986.

5. Appellant's recent medical history includes respiratory illness in January 2025 resulting in increased need for BiPAP therapy throughout the day instead of just at night. New diagnoses include anemia requiring iron infusions, and unstable blood pressure, with erratic blood pressure highs and lows creating safety issues as consumer becomes faint with head dropping. Urologic issues continue with chronic urinary tract infections, and a history of urosepsis.

6. The prior authorization request was modified in 6 areas: medication administration, assistance with nebulizers, blood pressure monitoring, insertion and removal of contact lenses, wound care, and changing bed linens between the hours of midnight and 6 a.m.

7. MassHealth reversed modifications to PCA time requested for insertion and removal of contact lenses 5 minutes, twice per day, 7 days per week and approved the time as requested.

8. Appellant acknowledged that time requested for changing bed linens is not needed and agreed with the modification reducing the requested PCA time by 20 minutes once per night between midnight and 6 a.m.

9. Appellant agreed to the modification of 15 minutes PCA time requested for assistance with nebulizer treatments between midnight and 6 a.m. to 5 minutes once per night.

10. PCA time for assistance with instilling medications into the bladder by catheter was requested 15 minutes once per day, 4 days per week.

11. Appellant has chronic multi-resistant organisms in the urinary tract, and the urologist has prescribed two antibiotics to be instilled in the bladder via straight catheterization two days per week for each medication which involves performing straight catheterization after Appellant is transferred to bed, instilling the appropriate antibiotic into the bladder, which is left to dwell for a prescribed time after which Appellant is recatheterized to drain the antibiotic out of the bladder.

12. Appellant's mother and two other PCAs have worked with Appellant for the last [redacted] years and were trained by the physician to administer antibiotics by catheter.

13. Appellant does not have nursing services.

14. PCA time for documenting blood pressure was requested 2 minutes, 8 times per day, 7 days per week. PCA time for blood pressure monitoring was approved 2 minutes, twice per day, 7 days per week.

15. PCA time for documenting blood pressure information was deferred for clarification, and a

letter was submitted explaining the task. The deferral letter states that autonomic dysreflexia causes Appellant's blood pressure to fluctuate, and the wide fluctuations have been more dramatic in the past year resulting in Appellant having dangerously high blood pressure and then dropping to a hypotensive state at which time he has become faint with head dropping forward with potential to impede respiratory status.

16. The PCA currently maintains a log of blood pressure readings to determine medication administration and for physicians to determine changes or referrals needed.

17. PCA time for wound care was requested 10 minutes, twice per day, 7 days per week due for chronic ischial wounds that require removal of dressings, cleaning, and replacing dressings.

18. A deferral letter states that chronic wounds to ischial area require that the PCA remove old dressings, clean wounds, apply necessary ointments, and redress the wounds to prevent further skin deterioration and infection.

19. The deferral letter attributes the need for PCA time for wound care to the absence of other outside services leaving the PCA responsible to perform the task as part of Appellant's care.

Analysis and Conclusions of Law

The PCA program provides assistance with the following:[1]

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;

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

(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 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 MassHealth action.[2] The issues that remain unresolved involve PCA time requested for (1) assistance with instilling two antibiotics into the bladder by catheter requested 15 minutes once per day, 4 days per week which was denied by MassHealth; (2) blood pressure monitoring requested 8 times per day to create a log and data interpretation to direct medications, which was modified to 2 minutes twice per day, 7 days per week; and (3) wound care requested 10 minutes, twice per day, 7 days per week, and denied by MassHealth. For each of these areas, I find credible the MassHealth testimony that the requested services at issue are skilled nursing services[3] and conclude that these services cannot be reasonably and prudently delegated to an unskilled/unlicensed person.[4] Further, MassHealth correctly

[2] 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).

[3] See 438.410: Clinical Eligibility Criteria for CSN Agency Services

(A) Clinical Criteria for Nursing Services.

(1) A nursing service is a service that must be provided by an RN or LPN to be safe and effective, considering the inherent complexity of the service, the condition of the patient, and accepted standards of medical and nursing practice.

(2) Some services are nursing services on the basis of complexity alone (for example, intravenous and intramuscular injections). However, in some cases, a service that is ordinarily considered unskilled may be considered a nursing service because of the patient's condition. This situation occurs when only an RN or LPN can safely and effectively provide the service.

[4] See Board of Registration in Nursing 244 CMR 3.05: Delegation and Supervision of Selected Nursing Activities by Licensed Nurses to Unlicensed Persons:

The licensed nurse is responsible for engaging in the practice of nursing in accordance with the nurse's scope of practice as defined at M.G.L. c. 112 § 80B, and 244 CMR: within the limits of the nurse's educational preparation, subsequent acquired education, experience and demonstrated competence. Nursing assessment and analysis of the nursing needs of a patient, development of the nursing plan of care, implementation of the plan, and evaluation of the plan are essential components of nursing practice and are the functions of the licensed nurse. The full utilization of the services of a licensed nurse may permit him or her to delegate selected nursing activities to unlicensed persons. Although unlicensed persons may be used to complement the licensed nurse in the performance of nursing functions, such persons cannot be used as a substitute for the licensed nurse. The following sections govern the licensed nurse in delegating and supervising nursing activities to unlicensed persons.

(1) Definitions. Definitions for terms used in 244 CMR 3.05 and throughout 244 CMR are set forth in 244 CMR 10.00: Severability. (2) General Criteria for Delegation. Regardless of setting, the licensed nurse who delegates nursing activities to unlicensed persons must comply with the following requirements:

determined that these tasks are not within the purview of the PCA program and therefore do not meet the standard of care for the PCA program which is limited to performing the ADLs and IADLs described above. PCAs are not allowed to perform skilled tasks that require a level of training associated with skilled nursing care. Although a family member can be trained by medical personnel to perform some skilled tasks, that family member cannot be paid as a PCA for performing the skilled task. The PCA program allows a PCA to physically assist a member to take medications prescribed by a physician that otherwise would be self-administered. Instilling antibiotics into the bladder is a skilled nursing service and there is no evidence or testimony suggesting that the procedure would otherwise be self-administered. Similarly, wound care is a skilled nursing service that inherently involves assessment and evaluation that is beyond the scope of the PCA program. While blood pressure monitoring can be considered an unskilled task to be performed by a PCA solely for the purpose of data collection, in Appellant's case, the additional time requested is intended to record and interpret data for purposes of determining medication amounts to be administered, which is a skilled nursing task that cannot be delegated to an unskilled/unlicensed provider and is beyond the scope of the PCA program.[5] Therefore, the modification to 2 minutes, twice daily for routine blood pressure monitoring is upheld.

For the foregoing reasons, the appeal is DENIED.

Order for MassHealth

(a) The delegating nurse is directly responsible for the nature and quality of nursing care rendered under his or her direction. However, in the event the qualified unlicensed person deviates from the instruction, nursing plan of care or other delegating nurse directive, the delegating nurse does not bear responsibility and accountability for the outcome of the delegated activity performed by the unlicensed person.

(b) The final decision as to what can be safely delegated in any specific situation is within the scope of the delegating nurse's judgment.

(c) Prior to delegating the nursing activity, the delegating nurse must make an assessment of the patient's nursing care needs and care delivery setting to ensure it can be safely delegated to the unlicensed person.

(d) The nursing activity to be delegated must be one that a reasonable and prudent nurse would determine to be delegable within the scope of nursing judgment; would not require the unlicensed person to systematically assess, analyze, interpret, plan and/or evaluate patient data. The delegated activity must be one that can be properly performed by the unlicensed person without jeopardizing the patient's safety and welfare.

(e) Said delegation must occur within the job description of the unlicensed person, and the employing agency's policies and procedures in compliance with 244 CMR 3.05(4) and (5). Such employer policies and procedures must include acknowledgement that the final decision to delegate is made by the delegating nurse only. Employer policy or contractual language can not mandate the licensed nurse to delegate, nor mandate any components of the delegation process.

[5] See specifically: Board of Registration in Nursing 244 CMR 3.05 (1)(d) at fn. 4 that prohibits delegation of a nursing service to an unlicensed person to systematically assess, analyze, interpret, plan and/or evaluate patient data.

Effective June 1, 2025, restore PCA time requested for insertion and removal of contact lenses as requested. Rescind aid pending, and calculate total PCA hours for the prior authorization period June 1, 2025 through May 31, 2026.

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

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