

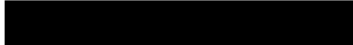
**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Approved in part; Denied in part; Dismissed in part	Appeal Number:	2508557
Decision Date:	10/10/2025	Hearing Date:	08/18/2025
Hearing Officer:	Emily Sabo		

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:	Approved in part; Denied in part; Dismissed in part	Issue:	Prior Authorization; Personal Care Attendant (PCA) Services
Decision Date:	10/10/2025	Hearing Date:	08/18/2025
MassHealth's Rep.:	Kelly Rayen, RN	Appellant's Rep.:	[REDACTED]
Hearing Location:	Quincy Harbor South (Telephone)	Aid Pending:	No

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 16, 2025, MassHealth modified the Appellant's prior authorization request for personal care attendant (PCA) services from the requested 61 hours per week for 40.14 school weeks and 65 hours, 30 minutes per week for 12 vacation weeks, to 51 hours, 15 minutes per week for 40.14 school weeks and 55 hours per week for 12 vacation weeks. Exhibit 1. The Appellant's representative filed this appeal with the Board of Hearings in a timely manner on June 4, 2025. 130 CMR 610.015 and Exhibit 2. Modification of a prior authorization request is valid grounds for appeal to the Board of Hearings. 130 CMR 610.032.

Action Taken by MassHealth

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

Issue

Was MassHealth correct, pursuant to 130 CMR 422.410 and 130 CMR 450.204(A), to modify the Appellant's prior authorization request for PCA services from the requested 61 hours per week for 40.14 school weeks and 65 hours, 30 minutes per week for 12 vacation weeks, to 51 hours, 15 minutes per week for 40.14 school weeks and 55 hours per week for 12 vacation weeks?

Summary of Evidence

As part of the fair hearing request, the Appellant's father and guardian submitted the following letter:

At [Appellant's] most recent nurse evaluation it was determined that an increase in PCA hours are not only warranted, but truly needed. With a primary diagnosis of metastatic [REDACTED], a rare brain cancer impacting the central nervous system, doctors are continuing to learn how this devastating disease continues to impact daily life even years after initial diagnosis and treatment. [Appellant] has also been diagnosed with [REDACTED], intractable epilepsy, and many other late treatment effects you will find in her records.

Reason for Appeal

Due to safety and medically necessary reasons, I am requesting additional times for the areas notes below. Over the past year, [Appellant's] level of independence with both ADLs and IADLs have continued to decline. Also, [Appellant's] older brother who used to live in the home and provide her with significant support, [REDACTED] [REDACTED] I have attached the report completed during [Appellant's] recent evaluation.

Appeal Supporting Documentation

Transfers and PROM

- Our home has flights of stairs at all enter/exit locations as well as a staircase between the finished basement and main living area, and again heading up to all bedrooms.
- When [Appellant] has a seizure, she has no ability to control movements or reposition herself. Therefore, during a generalized seizure someone must make sure her head is in neutral to prevent choking. Even after a generalized seizure is over (1x/week) and also after short tonics (daily surrounding sleep) she then slips into a long atypical absence seizure which can last up to 6 hours. During this time, while she doesn't have control of her movements independently, she does need to be repositioned periodically as movement triggers positive brain activity to where an observer can see glimmers of baseline cognitive function. Without the repositioning and PROM (passive range of motion) this absent seizure can last even longer and [Appellant] may require even more emergency rescue anticonvulsant medications.

RNS¹ download

- This process takes approximately 10 minutes. [Appellant's] neurologist requires a download to be completed a minimum of 2x/day and additionally surrounding generalized seizures (approximately 1x/week) as well as surrounding unusual or different seizure presentations or durations (approximately 1x/week). An RNS download may be necessary any time of day or night.

RNS swipe

- While this process is quick, taking just seconds, close observation after each swipe is necessary. Again swipes may be necessary any time of day or night.

Laundry

- [Appellant] requires 3-5 clothing changes each day depending on seizure activity and incontinence.
- All of [Appellant's] bedding, including sheets, blankets, and multiple washable bed pads require laundering any time of day or night, at times more than once per night.
- Washable bed pads are also used on couches due to incontinence during seizure activity.

MD Transport

- PCA help requested not only for transfer assist, but also for proactive and reactive seizure management.
 - Proactive Strategies
 - Keep engaged to avoid sleeping which often results in seizures that may require emergency medications.
 - Encourage and assist when needed to drink water (hydration is a constant concern due to GI challenges and seizure medications)
 - Reactive Strategies
 - Holding [Appellant's] head in neutral
 - Changing when incontinent
 - Holding iPad to determine whether or not [Appellant] can track, watching iPad calms [Appellant's] brain and helps come back to baseline during a long atypical absence [seizure].

Exhibit 2 at 2-3.

The hearing was held by telephone. MassHealth was represented by a Registered Nurse and clinical appeals reviewer. Information from the record and the parties' testimony is summarized as follows:

The Appellant is [REDACTED] She has [REDACTED] autism, [REDACTED] The Appellant lives [REDACTED]

¹ Responsive neurostimulation.

with her parents. In [REDACTED], she underwent brain surgery to have a responsive neurostimulator (RNS) placed. The Appellant attends the [REDACTED].

The MassHealth representative testified that the Appellant's personal care management services agency, [REDACTED] submitted a re-evaluation prior authorization request to MassHealth on the Appellant's behalf of May 6, 2025. [REDACTED] requested 61 hours per week for 40.14 school weeks and 65 hours, 30 minutes per week for 12 vacation weeks. On May 16, 2025, MassHealth modified the request to 51 hours, 15 minutes per week for 40.14 school weeks and 55 hours per week for 12 vacation weeks. The time period for the prior authorization request is June 4, 2025, to June 3, 2026. MassHealth modified categories of activities of daily living: transfer, passive range of motion (PROM), eating, and other health care needs (suction, hearing aid, RNS download, RNS swipe). MassHealth modified two instrumental activities of daily living: laundry and medical transportation. The MassHealth representative explained that these were modified because the time requested was longer than ordinarily required, and because the Appellant lives with her family and guardian and MassHealth expects family members to provide non-reimbursable assistance with instrumental activities of daily living. During the discussion at hearing, the MassHealth representative agreed to restore the time requested for the RNS download, which was 140 minutes weekly.²

The Appellant was represented by her father/guardian, who verified her identity. He testified that the Appellant has many doctor's appointments and is undergoing aggressive chemotherapy. The Appellant's representative testified that the Appellant has an uncontrolled seizure disorder and that her experience and needs cannot be compared to anyone else, and that that is also the opinion of his daughter's doctors at [REDACTED]. While the Appellant is [REDACTED] she functions at the level of a child 5-8 years old. The Appellant's representative testified that the Appellant can go into seizures that last up to 3 hours. The Appellant's representative testified that the Appellant may experience incontinence during seizures. He testified that the Appellant may have multi-hour seizure episodes multiple times a week. The Appellant's representative explained that when the Appellant comes out of a seizure, she is in a confused state and that it is critical to have a second person there. The Appellant's representative testified that he works full time. The Appellant's representative testified that the Appellant's brother had been helping, but he [REDACTED]

The Appellant's representative explained on an average day, before he leaves the house, he goes to see if the Appellant is up. The Appellant's representative testified that when the Appellant is going into or coming out of sleep, she is likely to have a seizure. The Appellant's representative testified that multiple times per week, they may carry the Appellant into the bathroom and that it could be a few minutes to up to 20 minutes when the Appellant is coming out of the seizure. The Appellant's representative testified that when the Appellant has a more serious seizure episode, she may need to be treated with Diazepam or a quick-acting nasal spray, and that several rounds of treatment may

² MassHealth had originally modified this to 28 minutes weekly. *See also* Exhibit 1.

need to be administered. During a seizure, the Appellant may lose motor control and experience incontinence. The Appellant's representative testified that the Appellant is put on her side, and they have to make sure that her airway is open and not blocked. He explained that if the seizure lasts longer than 45 minutes then they may need to reach out to the hospital. The Appellant's representative testified that according to the Appellant's neurologist and the RNS data, the Appellant experiences upwards of 3,000 seizures per day. The Appellant's representative testified that the Appellant has major seizures several times per week. The Appellant's representative also shared that he appreciates MassHealth's support as it allows him to work. He testified that as the consumer or legal guardian it is very difficult to understand how the PCA minutes work and when he completes time cards for the PCA, he cannot exclude waiting or monitoring time from what they are paid.

Mobility Transfers

The MassHealth representative testified that MassHealth reduced the time for mobility transfers from the requested 4 minutes per episode to 2 minutes per episode. There are 5 episodes per day when the Appellant is in school and 7 episodes per day on weekends and school vacation weeks. During school weeks, ██████████ requested 156 minutes weekly and during vacation weeks, requested 196 minutes weekly. MassHealth modified this to 78 minutes weekly during school weeks, and 98 minutes weekly during vacation weeks.

The MassHealth representative explained that MassHealth made this modification because the time requested was longer than ordinarily required, and that based on documentation, the Appellant does not use special devices to walk or transfer. The MassHealth representative testified that the time is for the PCA's hand-on assistance to get the Appellant between laying, standing, and sitting.

The Appellant's representative testified that the Appellant uses a medical chair during travel out of the house or to medical appointments. The Appellant's representative testified that the time necessary for mobility transfers may be up to 15 minutes per episode as one person tries to use a cold wash cloth on the Appellant and the other person tries to help wake the Appellant and sweep her feet over. The Appellant testified that he was surprised that the amount of time for mobility transfers was reduced because the Appellant has continued to regress over the past few years and that without more PCA time authorized, the family will have to pay for additional nursing for the Appellant out of pocket.

The request states that the Appellant needs a maximum level of assistance for mobility transfers.

PROM

The request states that PROM was "approved last year to promote blood flow, ease spasms and discomfort." Exhibit 5 at 18.

The MassHealth representative testified that MassHealth reduced the time for PROM for each extremity from the requested 8 minutes per episode to 5 minutes per episode. There are two episodes per day for each extremity, and the exercises are performed daily. ██████████ requested 448 minutes weekly and MassHealth modified this to 280 minutes weekly.³ The MassHealth representative explained that PROM is intended for bedbound or immobilized individuals to prevent contractures and that based on documentation, the Appellant can walk and she has chiropractor appointments. The MassHealth representative testified that MassHealth approved some time for the prevention of contractures, but because the Appellant is able to move her joints into motion, it was appropriate for MassHealth to reduce the time to 5 minutes per extremity per episode.

The Appellant's representative testified that he was somewhat confused because he thought that PROM dealt more with moving the Appellant's limbs to help her come out of seizures. He was not sure if it was something that the evaluating nurse added but that he wanted to advocate for his daughter.

Eating

The MassHealth representative testified that MassHealth reduced the time per episode for eating from 20 minutes to 15 minutes. There are 2 episodes per day when the Appellant is in school and 3 episodes per day otherwise. During school weeks, ██████████ requested 320 minutes weekly and during vacation weeks, 420 minutes weekly. MassHealth modified this to 240 minutes weekly during school weeks, and 315 minutes weekly during vacation weeks. The MassHealth representative testified that waiting time for chewing or monitoring the Appellant eating is not a service covered by MassHealth.

The Appellant's representative testified that the Appellant needs hands-on support with eating and drinking and that she eats 5 times per day (as opposed to 3). The Appellant's representative testified that the Appellant drinks 10 glasses of water per day, and that it is not something that she can do independently. The Appellant's representative testified that the Appellant's meals take much longer than 15-20 minutes and that they must pay for the whole of that time for the PCA.

The request states that the Appellant needs a maximum level of assistance for eating. Exhibit 5 at 24.

Other Healthcare Needs: Oral Suction

The MassHealth representative testified that MassHealth reduced the time for suctioning from 3 minutes per episode to 2 minutes per episode. This is done once daily.⁴ ██████████ requested 21

³ For both school and vacation weeks.

⁴ For both school and vacation weeks.

minutes weekly and MassHealth reduced this to 14 minutes weekly. The MassHealth representative testified that suctioning is a quick sweep that should not last longer than 15 seconds. The MassHealth representative testified that suctioning for longer could lead to pulmonary problems, and that the time allotted is for a quick sweep and cleaning of the equipment.

The Appellant's representative testified that due to the Appellant's number of seizures, that she experiences many secretions requiring oral suctioning. The Appellant's representative testified that this is done frequently and involves in-between wait time, with monitoring and controlling the saliva.

Other Healthcare Needs: Hearing aid care

The MassHealth representative testified that MassHealth reduced the time for hearing aid care from 5 minutes per episode to 2 minutes per episode. This is done twice daily.⁵ ██████████ requested 70 minutes weekly and MassHealth reduced this to 28 minutes weekly. The MassHealth representative explained that MassHealth reduced this time to 2 minutes because 5 minutes is longer than ordinarily required.

The Appellant's representative testified that hearing aid care is not as simple as described by the MassHealth representative. He testified that the PCA cleans and inspects the hearing aid to make sure that it is in good condition without cracks in the tubing. The Appellant's representative testified that the PCA also checks the batteries, which must be changed every few days.

Other Healthcare Needs: RNS Swipe with magnet

The MassHealth representative testified that MassHealth reduced the time from 2 minutes per episode to 1 minute per episode, and this is done twice daily,⁶ reducing the time weekly from 28 minutes requested to 14 minutes.

The Appellant's representative explained that, once hooked up to a laptop, the RNS system works by holding a wand over the Appellant's head, which transmits the data to the laptop. With the RNS swiping, he explained that the Appellant's doctor has directed that this be done, and that it saves the data, linking what the device is seeing, for review by the doctor. The Appellant's representative testified that there are sometimes up to 30 swipes a day. The Appellant's representative testified that he agreed that the RNS swiping is a short process but he disagreed with the frequency of what was requested and approved.

Laundry

⁵ For both school and vacation weeks.

⁶ For both school and vacation weeks.

The MassHealth representative testified that MassHealth reduced the time for laundry from the requested 45 minutes weekly to 30 minutes weekly.⁷ The MassHealth representative testified that because the Appellant lives with her legal guardian, normally no time would be approved for this instrumental activity of daily living but that MassHealth approved the 30 minutes due to the Appellant's incontinence and excessive laundry.

The Appellant's representative explained that the Appellant generates a large volume of extra laundry of clothing and bedding due to her incontinence, which requires two additional loads of laundry daily. The Appellant's representative explained that this time adds up and that the Appellant's parents are trying to keep her close to them and safe.

Medical Transportation

On the request, the comments state: "PCA to attend app[ointments] to assist with all transfers, mobility, seizure management." Exhibit 5 at 37, 67. The MassHealth representative testified that MassHealth reduced the time from the requested 87 minutes weekly to 20 minutes weekly,⁸ on the basis that the PCA time approved was for transfer assist only. The MassHealth representative explained that the parent and/or legal guardian drives the Appellant to the medical appointments and that monitoring of the Appellant by the PCA is not a covered service.

The Appellant's representative testified that riding in the car is stressful for the Appellant and can trigger a seizure, and so they try and have an additional person in the car. The Appellant's representative explained that the Appellant's Individualized Educational Plan requires that a second person travel with the Appellant to monitor her and the [REDACTED] school district requires that a nurse ride with the Appellant in the school van. The Appellant's representative testified that the PCA supports and positions the Appellant in the car, along with the other functions outlined in his fair hearing request letter.

Findings of Fact

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

1. The Appellant is [REDACTED] and lives with her parents. Testimony, Exhibit 4.
2. The Appellant has malignant neoplasm of the central nervous system. The Appellant's medical history and diagnoses include [REDACTED]. In [REDACTED], she underwent brain surgery to have an RNS placed. Testimony, Exhibit 5.

⁷ For both school and vacation weeks.

⁸ For both school and vacation weeks.

3. On May 6, 2025, [REDACTED], a personal care management services agency, submitted a re-evaluation prior authorization request to MassHealth on the Appellant's behalf for 61 hours per week for 40.14 school weeks and 65 hours, 30 minutes per week for 12 vacation weeks. Testimony, Exhibits 1 & 5.
4. By notice dated May 16, 2025, MassHealth modified the request to allow 51 hours, 15 minutes per week for 40.14 school weeks, and 55 hours per week for 12 vacation weeks. Testimony, Exhibits 1 & 5.
5. The time period for this prior authorization request is June 4, 2025, to June 3, 2026. Testimony, Exhibits 1 & 5.
6. MassHealth modified categories of activities of daily living: mobility/transfer, passive range of motion (PROM), eating, and other health care needs (suction, hearing aid, RNS download, RNS swipe). MassHealth modified two instrumental activities of daily living: laundry and medical transportation. Testimony, Exhibits 1 & 5.
7. On June 4, 2025, the Appellant's guardian filed a timely appeal with the Board of Hearings. Exhibit 2.
8. [REDACTED] requested 156 minutes weekly during school weeks and 196 minutes weekly during vacation weeks for mobility transfers. This is based on 4 minutes per episode, with 5 episodes per day when the Appellant is in school and 7 episodes per day on weekends and school vacation weeks. Testimony, Exhibit 5.
9. MassHealth modified the time for mobility transfers to 78 minutes weekly during school weeks, and 98 minutes weekly during vacation weeks. This is based on 2 minutes per episode, with 5 episodes per day when the Appellant is in school and 7 episodes per day on weekends and school vacation weeks. Testimony, Exhibits 1 & 5.
10. The Appellant requires a maximum level of assistance for mobility transfers. Exhibit 5 at 16.
11. Northeast Arc requested 448 minutes weekly for PROM. This is based on 8 minutes per episode for each extremity, twice daily, 7 days a week. Testimony, Exhibit 5.
12. MassHealth modified the time for PROM to 280 minutes weekly, based on 5 minutes per episode for each extremity, twice daily, 7 days a week. Testimony, Exhibits 1 & 5.
13. PROM is intended to prevent contractures. Testimony.
14. [REDACTED] requested 320 minutes weekly during school weeks and 420 minutes weekly during vacation weeks for eating. This is based on 20 minutes per episode and 2 episodes per

- day when the Appellant is in school and 3 episodes per day otherwise. Testimony and Exhibit 5.
15. MassHealth modified the time for eating to 240 minutes weekly during school weeks, and 315 minutes weekly during vacation weeks. This is based on 15 minutes per episode and 2 episodes per day when the Appellant is in school, and 3 episodes per day otherwise. Testimony and Exhibits 1 & 5.
 16. The Appellant needs maximum hands-on assistance with eating and drinking. Testimony, Exhibit 5.
 17. ██████████ requested 21 minutes weekly for other healthcare needs: oral suctioning. This is based on 3 minutes per episode, once a day. Testimony, Exhibit 5.
 18. MassHealth modified the time for other healthcare needs: oral suctioning to 14 minutes weekly, based on 2 minutes per episode, once a day. Testimony, Exhibits 1 & 5.
 19. ██████████ requested 70 minutes weekly for other healthcare needs: hearing aid care. This is based on 5 minutes per episode, twice daily. Testimony, Exhibit 5.
 20. MassHealth modified the time for other healthcare needs: hearing aid care to 28 minutes weekly, based on 2 minutes per episode, twice daily. Testimony, Exhibits 1 & 5.
 21. The Appellant's PCA cleans and inspects the hearing aid to make sure that it is in good condition without cracks in the tubing. The Appellant's PCA also checks the batteries, which must be changed every few days. Testimony.
 22. At the hearing, the MassHealth representative agreed to restore the time requested by ██████████ for other healthcare needs: RNS download, which was 140 minutes weekly.
 23. ██████████ requested 28 minutes weekly for other healthcare needs: RNS swipe with magnet. This was based on 2 minutes per episode, twice daily. Testimony, Exhibit 5.
 24. MassHealth modified the time for other healthcare needs: RNS swipe with magnet to 14 minutes weekly, based on 1 minute per episode, twice daily. Testimony, Exhibits 1 & 5.
 25. ██████████ requested 45 minutes weekly for laundry. Testimony, Exhibit 5.
 26. MassHealth modified the time for laundry to 30 minutes weekly. Testimony, Exhibits 1 & 5.
 27. The Appellant generates a large volume of extra laundry of her clothing and bedding, due to incontinence and resulting in two additional loads of laundry daily. Testimony.

28. [REDACTED] requested 87 minutes weekly for medical transportation, for the “PCA to attend app[ointments] to assist with all transfers, mobility, seizure management.” Exhibit 5 at 37, 67.
29. MassHealth modified the time for medical transportation to 20 minutes weekly, to only approve PCA time for transferring the Appellant into and out of the vehicle. Testimony, Exhibits 1 & 5.
30. The Appellant’s PCA provides hands-on assistance if the Appellant experiences a seizure during the ride to her medical appointments. Testimony, Exhibit 2.
31. I take administrative notice of the MassHealth PCA Time-for-Task Guidelines.

Analysis and Conclusions of Law

MassHealth regulations about PCA services are found at 130 CMR 422.000 et seq.

130 CMR 422.402: Definitions

....

Activities of Daily Living (ADLs) — those specific activities described in 130 CMR 422.410(A) and in the Contract for Personal Care Management (PCM) Services. Such activities are performed by a personal care attendant (PCA) to physically assist a member with mobility, taking medications, bathing or grooming, dressing, passive range of motion exercises, eating, and toileting.

....

Activity Time — the actual amount of time spent by a PCA physically assisting the member with ADLs and Instrumental Activities of Daily Living (IADLs). Activity time is reported on the activity form.

....

Family Member — the spouse of the member, the parent of a minor member, including an adoptive parent, or any legally responsible relative.

....

Instrumental Activities of Daily Living (IADLs) — those specific activities described in 130 CMR 422.410(B) that are instrumental to the care of the member’s health and are performed by a PCA, such as meal preparation and clean-up, housekeeping, laundry, shopping, maintenance of medical equipment, transportation to medical providers, and completion of paperwork required for the member to receive PCA services.

....

Passive Range of Motion Exercises (Passive ROM) — movement applied to a joint or extremity by another person solely for the purpose of maintaining or improving the distance and direction through which a joint can move.

....

Personal Care Attendant (PCA) — a person who meets the requirements of 130 CMR 422.404(A)(1)

and who is hired by the member or surrogate to provide PCA services. In addition, for the sole purpose of M.G.L. c. 118E, §§ 70 through 75, a PCA is a person who is hired by the member or surrogate to provide PCA services through a senior care organization (SCO) contracting with the MassHealth agency pursuant to M.G.L. c. 118E, § 9D or a person who is hired by the member or surrogate to provide PCA services through an integrated care organization (ICO) contracting with the MassHealth agency pursuant to M.G.L. c. 118E, § 9F. Unless explicitly stated in 130 CMR 422.000, in the SCO's MassHealth contract, or in the ICO's MassHealth contract, no other provisions of 130 CMR 422.000 apply to any SCO, ICO, or PCA hired by any eligible MassHealth member through a SCO or ICO.

....

Personal Care Attendant Program (PCA Program) — a MassHealth program under which PCA services and associated Personal Care Management and Fiscal Intermediary functions are available to MassHealth members including, for the sole purpose of M.G.L. c. 118E, §§ 70 through 75, those services and functions when provided through a senior care organization (SCO) as defined in M.G.L. c. 118E, § 9D, or an integrated care organization (ICO) as defined in M.G.L. c. 118E § 9F. Unless explicitly stated in 130 CMR 422.000, the SCO's MassHealth contract, or the ICO's MassHealth contract, no other provisions of 130 CMR 422.000 apply to any SCO, ICO, or PCA hired by an eligible MassHealth member through a SCO or ICO.

....

Personal Care Attendant Services (PCA Services) — physical assistance with ADLs and IADLs provided to a member by a PCA in accordance with the member's authorized evaluation or reevaluation, service agreement, and 130 CMR 422.410.

Personal Care Management (PCM) Agency — a public or private agency or entity under contract with EOHHS to provide PCM functions in accordance with 130 CMR 422.000 and the PCM agency contract.

Personal Care Management (PCM) Functions — administrative functions provided by a PCM agency to a member in accordance with a contract with EOHHS, including, but not limited to, functions identified in the PCM agency contract and 130 CMR 422.419(A).

130 CMR 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 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.

130 CMR 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.

(B) MassHealth covers transitional living program services provided by an organization in accordance with 130 CMR 422.431 through 422.441 and the MassHealth agency's proposal requirements.

130 CMR 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.

Pursuant to 130 CMR 450.204(A), 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 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.

130 CMR 450.204(A).

The Appellant has the burden “to demonstrate the invalidity of the administrative determination.” *Andrews v. Division of Medical Assistance*, 68 Mass. App. Ct. 228, 231 (2007). See also *Fisch v. Board of Registration in Med.*, 437 Mass. 128, 131 (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).

At the hearing, the MassHealth representative agreed to restore the time requested for other healthcare needs: RNS download, which totaled 140 minutes per week. Accordingly, that part of the appeal is approved and dismissed. 130 CMR 610.035(A)(8).

Eight other areas of modification remain in dispute.

Mobility Transfers

MassHealth reduced the time for mobility transfers from the requested 4 minutes per episode to 2 minutes per episode. There are 5 episodes per day when the Appellant is in school and 7 episodes per day on weekends and school vacation weeks. This resulted in overall reduction from 156 minutes weekly during school weeks and 196 minutes weekly during vacation weeks to 78 minutes weekly during school weeks, and 98 minutes weekly during vacation weeks.

Based on my review of the testimony and evidence in the record, including administrative notice of the MassHealth PCA Time-For-Tasks Guidelines, I find that the Appellant has met her burden to show the invalidity of MassHealth’s modification, and I direct that the requested time be restored. The Appellant has documented complex medical needs, and when experiencing a seizure she needs additional assistance. Therefore, this part of the appeal is approved.

PROM

MassHealth reduced the time for PROM for each extremity from the requested 8 minutes per episode to 5 minutes per episode. There are two episodes per day for each extremity, and the exercises are performed daily. This totaled an overall reduction from 448 minutes weekly to 280 minutes weekly. The MassHealth representative explained that PROM is intended to prevent contractures. In 130 CMR 422.402, it is defined as “movement applied to a joint or extremity by another person solely for the purpose of maintaining or improving the distance and direction through which a joint can move.”

Based on my consideration of the evidence and testimony, I find that the Appellant has not met her burden to demonstrate that MassHealth erred in making this modification. Therefore, regarding PROM, the appeal is denied.

Eating

MassHealth reduced the time per episode for eating from 20 minutes to 15 minutes. There are 2 episodes per day when the Appellant is in school and 3 episodes per day otherwise. This resulted in an overall modification from 320 minutes during school weeks and 420 minutes during vacation weeks to 240 minutes during school weeks and 315 minutes during vacation weeks.

Based on my review of the testimony and evidence in the record, including administrative notice of the MassHealth PCA Time-For-Tasks Guidelines, I find that the Appellant has met her burden to show the invalidity of MassHealth's modification, and I direct that the requested time be restored. I credit that the Appellant needs maximum hands-on assistance and that 20 minutes per episode is appropriate. Accordingly, the appeal is approved regarding the time for eating.

Other Healthcare Needs: Oral Suction

MassHealth reduced the time for suctioning from 3 minutes per episode to 2 minutes per episode, for an overall modification of 21 minutes to 14 minutes weekly.

Under the MassHealth regulations, supervision and guiding are not covered services. 130 CMR 422.412(C). Waiting time for the PCA is not covered. 130 CMR 422.402; 130 CMR 422.411 (activity time is the actual amount of time that the PCA spends physically assisting the member). However, based on the Appellant's representative's testimony about the number of seizures that the Appellant experiences daily and the need for oral suctioning, I find that the Appellant has met her burden to demonstrate that 3 minutes daily is appropriate for this activity and this part of the appeal is approved.

Other Healthcare Needs: Hearing aid care

MassHealth reduced the time for hearing aid care from 5 minutes to 2 minutes per episode, twice daily. This resulted in an overall modification from 70 minutes to 28 minutes weekly.

I credit the Appellant's representative testimony that the PCA cleans and inspects the hearing aid to make sure that it is in good condition without cracks in the tubing and also checks the batteries, which must be changed every few days, and that this activity takes 5 minutes per episode. Therefore, I find that the Appellant has met her burden regarding hearing aid care, and this part of the appeal is approved.

Other Healthcare Needs: RNS Swipe with magnet

MassHealth reduced the time from 2 minutes to 1 minute per episode, twice daily, which was an overall reduction from 28 minutes to 14 minutes weekly.

As discussed above, I credit the Appellant's representative's testimony about the Appellant's

number of seizures and swipes daily, to find that the Appellant has met her burden of showing that 4 minutes, instead of 2 minutes daily is appropriate. Thus, the appeal is approved regarding RNS swipe.

Laundry

MassHealth reduced the time for laundry from the requested 45 minutes weekly to 30 minutes weekly. The MassHealth representative testified that because the Appellant lives with her legal guardian, normally no time would be approved for this instrumental activity of daily living, but that MassHealth approved the 30 minutes due to the Appellant's incontinence and excessive laundry.

I credit the Appellant's representative's testimony that the Appellant's medical conditions generate two additional loads of laundry daily due to the Appellant's incontinence. I find that this goes beyond "routine laundry" as described in 130 CMR 422.410(C)(1). Based on the testimony and evidence in the record, I find that the Appellant has met her burden in demonstrating that MassHealth erred. Accordingly, this part of the appeal is approved.

Medical Transportation

MassHealth reduced the time for medical transportation from 87 minutes weekly to 20 minutes weekly, on the basis that the PCA time approved was for transfer assist only. The MassHealth representative explained that the parent and/or legal guardian drives the Appellant to the medical appointments and that monitoring of the Appellant by the PCA is not a covered service.

While I credit the Appellant's representative's testimony regarding the stresses of transporting the Appellant to medical appointments, I find that the Appellant has not met her burden in showing that the time requested for medical transportation is not a non-covered service under 130 CMR 422.412(C) or (F). Therefore, this part of the appeal is denied.⁹

Order for MassHealth

Adjust notice of May 7, 2025, to authorize PCA assistance weekly for

- Mobility Transfers
 - 156 minutes weekly for school weeks
 - 196 minutes weekly for vacation weeks
- Eating
 - 320 minutes weekly for school weeks

⁹ While outside the scope of this appeal, due to the Appellant's complicated medical needs, the Appellant and her family may wish to consider visiting nurse or home health aide services, or contacting the MassHealth Community Case Management Program, which is available by phone at (800) 863-6068 or e-mail at commcase@umassmed.edu.

- 420 minutes weekly for vacation weeks
- Oral Suction
 - 21 minutes weekly for all weeks
- Hearing Aid Care
 - 70 minutes weekly for all weeks
- RNS Download
 - 140 minutes weekly for all weeks
- RNS Swipe
 - 28 minutes weekly for all weeks
- Laundry
 - 45 minutes weekly for all weeks

for the prior authorization period of June 4, 2025, to June 3, 2026, in addition to the PCA assistance time already authorized by MassHealth.

Send notice to Appellant of implementation only; do not include appeal rights.

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.

Emily Sabo
Hearing Officer
Board of Hearings

cc: 

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