

# Office of Medicaid

## BOARD OF HEARINGS

Appellant Name and Address:

[REDACTED]

Appeal Decision:	Approved	Appeal Number:	2508699
Decision Date:	10/03/2025	Hearing Date:	08/18/2025
Hearing Officer:	Emily Sabo		

Appearance for Appellant:

[REDACTED]

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

<b>Appeal Decision:</b>	Approved	<b>Issue:</b>	Prior Authorization; Personal Care Attendant (PCA) Services
<b>Decision Date:</b>	10/03/2025	<b>Hearing Date:</b>	08/18/2025
<b>MassHealth's Rep.:</b>	Kelly Rayen, RN	<b>Appellant's Rep.:</b>	[REDACTED]
<b>Hearing Location:</b>	Quincy Harbor South (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 May 7, 2025, MassHealth modified the Appellant's prior authorization request for personal care attendant (PCA) services from the requested 67 hours, 30 minutes weekly to 60 hours, 30 minutes weekly. Exhibit 1. The Appellant's representative filed this appeal with the Board of Hearings in a timely manner on June 9, 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(A) and 130 CMR 450.204(A), to modify the Appellant's prior authorization request for PCA services from the requested 67 hours, 30 minutes weekly to 60 hours, 30 minutes weekly?

## Summary of Evidence

As part of the fair hearing request, the Appellant's daughter and power of attorney included the following letter stating that the Appellant

relies 100% on his PCA services. Yes, [he] is married and lives with his wife, however, his wife . . . is disabled as well with both physical and mental disabilities needing a caretaker herself. Prior to [Appellant's] stroke in [REDACTED], he was his wife's full-time caregiver. He does not have the ability to do any personal care himself nor is he able to rely on his wife for any care for himself.

Currently, [Appellant] has 67.5 hours for his PCA. This most recent recertification, he was given 60.5. We are requesting the 7-hours of personal care services be added back into the PCA's hours making the total PCA hours stay at the 67.5 hours we are currently authorized for.

Exhibit 2 at 2.

In advance of the hearing, MassHealth submitted a 51-page exhibit into the record. Exhibit 4. The hearing was conducted by telephone. MassHealth was represented by a Registered Nurse and clinical appeals reviewer. Information from Exhibit 4 and the parties' testimony is summarized as follows:

The Appellant is [REDACTED]. The Appellant's personal care management services agency, [REDACTED], submitted a re-evaluation prior authorization request to MassHealth on the Appellant's behalf for 67 hours, 30 minutes weekly for the period of July 2, 2025 through July 1, 2026. On May 7, 2025, MassHealth modified the authorization to 60 hours, 30 minutes weekly on the grounds that the additionally requested time was longer than ordinarily required for someone with the Appellant's physical needs. The only area that was modified was time for toileting special transfers, which MassHealth reduced to zero.

The MassHealth representative testified that the Appellant has a history of stroke and aphasia, and his other diagnoses include hemiplegia, hemiparesis, and seizures. The Appellant and his wife live in the home of his daughter, son-in-law, and their four children and two dogs. The Appellant and his wife share a bedroom and bathroom in the home. The evaluating nurse from [REDACTED] wrote:

[Appellant] has a hospital bed and a chair lift. The bathroom is complete with a built-in shower chair and there is a raised toilet seat for the toilet. Family provides a buzzer/bell that [Appellant] can use to let them know that he requires assistance. [Appellant] has had a significant functional decline over this past year. He was hospitalized due to pneumonia and since returning home has not returned to previous baseline. . . . He went to the hospital due to syncopal episode in the shower on 9/10/24. He has had several episodes of aspiration pneumonia.

Exhibit 4 at 11.

The request for toileting special transfer states "Requires 2 person assist with transfer." *Id.* at 23. The toileting comments from Tri-Valley state:

[Appellant] has had increased bladder and bowel incontinence daily which requires him to be cleaned up at bed level. He wears depends and has bed pads on chair/bed surfaces to absorb incontinence. He needs max assist with toileting hygiene and clothing management. He is dependent with all aspects of incontinence care d/t immobility d/t R-sided hemiplegia r/t CVA.

*Id.*

The MassHealth representative testified that [REDACTED] requested 20 minutes, 3 times per day, 7 days per week for toileting special transfers, totaling 420 minutes per week. The MassHealth representative testified that MassHealth denied this request because MassHealth approved the other time requested for toileting under bladder and bowel care and that special transfers would refer to the use of a Hoyer lift. The MassHealth representative testified that the Appellant has use of a raised toilet seat and is not bedbound, and that MassHealth cannot approve duplicative time. The MassHealth representative also testified that requested time has to match the task.

The Appellant was represented by his daughter and she verified his identity.<sup>1</sup> The Appellant's representative testified that the Appellant's condition had deteriorated since the evaluation was conducted in May.<sup>2</sup> The Appellant's representative testified that the Appellant has a suprapubic catheter. The Appellant's representative testified that the Appellant typically has a bare bottom, which is seated on a pad. The Appellant's representative explained that the Appellant has frequent incontinence episodes. The Appellant's representative testified that the Appellant needs two people to assist with cleaning the Appellant when he is incontinent in his wheelchair or bed chair. The Appellant's representative testified that the Appellant has a catheter, tubing, and bag, which are emptied twice a day, but that the Appellant still sometimes pees out of his penis. The Appellant's representative testified that a changing pad is used when cleaning up the Appellant's front and legs

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<sup>1</sup> Exhibit 4 also states that the Appellant's daughter is his surrogate. Exhibit 4 at 37, 41.

<sup>2</sup> If the Appellant's representative believes that the Appellant's needs have increased such that he requires additional PCA services, she can request that Tri-Valley submit a request for an adjustment to MassHealth, or reevaluate the Appellant.

and anywhere else that has gotten soiled, and that sometimes the Appellant needs to be stood up to facilitate cleaning. The Appellant's representative testified that the Appellant cannot roll to his left side. The Appellant's representative testified that toileting can seem like a full-time job. The Appellant's representative testified that the family encourages the Appellant to take some steps, but he is primarily in his wheelchair or bed. The Appellant's representative also stated that she was surprised that the request was modified because the Appellant had received time for toilet transfers in the past, despite not using a Hoyer lift. The Appellant's representative testified that it did not make sense to her that MassHealth would reduce the Appellant's PCA hours in light of his deteriorating condition.

Exhibit 4 states that the Appellant is [REDACTED] tall. Exhibit 4 at 2, 10. The request for time for bathing states, "He is an assist of 2 for person[al] hygiene, 1 to hold him upright and a 2<sup>nd</sup> to wash him d/t R-sided hemiplegia r/t CVA." *Id.* at 18.

## **Findings of Fact**

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

1. The Appellant is [REDACTED]. Testimony, Exhibit 4.
2. The Appellant has a history of stroke and aphasia, and his other diagnoses include hemiplegia, hemiparesis, and seizures. Testimony, Exhibit 4.
3. [REDACTED] a Personal Care Services Management (PCM) agency, submitted a re-evaluation request for PCA services to MassHealth on the Appellant's behalf for 67 hours and 30 minutes weekly. Testimony, Exhibits 1 & 4.
4. By notice dated May 7, 2025, MassHealth modified the request to allow 60 hours, 30 minutes of PCA assistance per week. Testimony, Exhibits 1 & 4.
5. The time period for this prior authorization request is July 2, 2025, to July 1, 2026. Testimony, Exhibits 1 & 4.
6. Tri-Valley requested 20 minutes, 3 times per day, 7 days per week for toileting special transfers, totaling 420 minutes per week. Testimony, Exhibit 4.
7. The request states that the Appellant requires a two-person assist with transfers. Exhibit 4.
8. The toileting comments from [REDACTED] state that the Appellant "has had increased bladder and bowel incontinence daily which requires him to be cleaned up at bed level. He wears depends and has bed pads on chair/bed surfaces to absorb incontinence. He needs max assist

with toileting hygiene and clothing management. He is dependent with all aspects of incontinence care d/t immobility d/t R-sided hemiplegia r/t CVA." Exhibit 4.

9. MassHealth modified the requested time for Toileting Special Transfer from 420 minutes weekly to zero minutes weekly. Testimony, Exhibit 4.
10. The Appellant's representative filed a timely appeal with the Board of Hearings on June 9, 2025. Exhibit 2.
11. The Appellant has experienced significant functional decline over the past year. Testimony, Exhibit 4.
12. The Appellant experiences frequent incontinence. Testimony, Exhibit 4.
13. The Appellant needs two people to assist him, with one person holding him upright, and another to assist him with cleaning. Testimony.
14. The Appellant has a suprapubic catheter, tubing, and bag, which are emptied twice daily, but he still sometimes pees out of his penis. Testimony.
15. The Appellant is [REDACTED] tall. Exhibit 4.
16. The PCA request for time for bathing states that the Appellant "is an assist of 2 for person[al] hygiene, 1 to hold him upright and a 2<sup>nd</sup> to wash him d/t R-sided hemiplegia r/t CVA." Exhibit 4.

## **Analysis and Conclusions of Law**

MassHealth regulations about PCA services are found at 130 CMR 422.000 et seq. Regulation 130 CMR 422.402 defines a PCA as a person who is hired by the member or surrogate to provide PCA services, which are further defined as assistance with the activities of daily living and instrumental activities of daily living as described in 130 CMR 422.410.

### 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 422.410.

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 one area of modification in dispute relates to the time for toileting special transfers. I credit the Appellant's representative's testimony, and based on that, and the evidence in the record, I find that the Appellant has met his burden of showing that the time requested by Tri-Valley is appropriate and medically necessary. Due to the Appellant's size and his medical history, including his recent decline and frequent incontinence episodes, I find that he needs two people to assist him with toileting. Therefore, the appeal is approved.

## **Order for MassHealth**

Adjust notice of May 7, 2025, to authorize 420 minutes of PCA assistance weekly for toileting special transfers for the prior authorization period of July 2, 2025, to July 1, 2026, in addition to the PCA assistance time already authorized by MassHealth.

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

## **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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Emily Sabo  
Hearing Officer  
Board of Hearings

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