

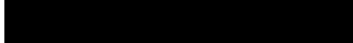
Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Dismissed in part; Denied in part	Appeal Number:	2508704
Decision Date:	8/1/2025	Hearing Date:	07/11/2025
Hearing Officer:	Amy B. Kullar, Esq.		

Appearance for Appellant:



Appearance for MassHealth:

Kelly Rayen, R.N., Clinical Reviewer, Optum



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

APPEAL DECISION

Appeal Decision:	Dismissed in part; Denied in part	Issue:	Prior Authorization; Personal Care Attendant Services
Decision Date:	8/1/2025	Hearing Date:	07/11/2025
MassHealth's Rep.:	Kelly Rayen, R.N.	Appellant's Rep.:	██████████
Hearing Location:	Quincy Harbor South 2 (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 April 25, 2025, MassHealth modified the appellant's prior authorization request for personal care attendant services. *See* 130 CMR 450.024(A), 130 CMR 422.410(A)(7), 130 CMR 422.410(B)(1) and Exhibit 1. The appellant filed this appeal in a timely manner on June 6, 2025. *See* 130 CMR 610.015(B) and Exhibit 2. MassHealth's decision to restrict or modify a member's assistance is valid grounds for appeal. *See* 130 CMR 610.032.

Action Taken by MassHealth

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

Issue

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

Summary of Evidence

The MassHealth representative appeared via telephone and identified herself as registered nurse and clinical appeals reviewer. The appellant is a MassHealth member aged [REDACTED] and he was represented at hearing by his mother. The parties' testimony and record evidence are summarized as follows:

The appellant's medical history includes a primary diagnosis of Autism Spectrum Disorder (ASD). Testimony and Exhibit 5. The appellant lives at home with his parents, grandmother, great-grandmother, and two siblings; his grandmother serves as his PCA. Testimony and Exhibit 5.

The appellant had an initial evaluation for PCA services on April 23, 2025, and on April 25, 2025, his PCM agency, [REDACTED], requested 7 hours and 30 minutes per week of PCA services for the period of 4/25/2025 to 4/24/2026. MassHealth modified this request on April 25, 2025, to 3 hours and 45 minutes per week for the service period 4/25/2025 to 4/24/2026. Testimony, Exhibit 5. MassHealth made six (6) modifications related to PCA assistance with eating, bladder care, bowel care, grooming: nail care, dressing, and undressing.

After testimony and additional information were disclosed at hearing, MassHealth and the appellant's mother came to an agreement on the following category: eating. This activity involves the PCA physically feeding the appellant his meal. The appellant's PCM agency requested eight minutes per episode, once per day, seven days per week (8x1x7). MassHealth modified this request to zero minutes per week. After discussion between the MassHealth representative and the appellant's mother, it was agreed that this category would be approved at five minutes per episode, once per day, seven days per week (5x1x7 or 35 minutes per week). Therefore, with both parties in agreement, the category of eating is no longer in dispute. Furthermore, after discussion on the following two categories, bladder care and bowel care, the appellant's mother agreed with MassHealth's modifications in these categories and accepted bladder care and bowel care as modified by MassHealth. Therefore, with both parties in agreement, the categories of bladder care and bowel care are no longer in dispute.¹

The remaining disputed categories are grooming: nail care, dressing, and undressing.

¹ For the category of bladder care, the appellant was seeking five minutes per episode, six times per day, two days per week on weekends (5x6x2) and five minutes per episode, four times per day, five days per week during the week (5x4x5); MassHealth modified this category to three minutes per episode, six times per day, two days per week on weekends (3x6x2) and three minutes per episode, four times per day, five days per week during the week (3x4x5); and for the category of bowel care, the appellant was seeking eight minutes per episode, one time per day, seven days per week; MassHealth modified this category to five minutes per day, once per day, seven days per week (5x1x7).

Grooming (nail care)

The MassHealth representative explained that this task, the nail care section of the Grooming category, is for the time it takes to cut the appellant's fingernails and toenails. The MassHealth representative testified that the appellant's PCM agency requested 10 minutes per episode of nail cutting, one time per week (10x1x1), and MassHealth modified this category to zero minutes per week. The MassHealth representative explained that this category was modified because under the regulations, based upon the appellant's age, nail cutting is considered *parental responsibility* for children aged [REDACTED]; she stated that even neurotypical children are not expected to perform their own nail care, and that she cannot approve this category. Testimony. She clarified that in the future, as the appellant ages, it may be a task that he will require PCA assistance with, but due to his current age, she cannot approve this task as requested. In response, the appellant's mother stated that she understood the reasoning for MassHealth's decision but that she would like the Hearing Officer to issue a decision on this category.

Dressing

The appellant requested ten minutes per episode, 1 time per day, 7 days per week (10x1x7) for PCA assistance with dressing. MassHealth modified this request to five minutes per episode, 1 time per day, 7 days per week (5x1x7). The MassHealth representative testified that the reason for this modification was that the time requested is longer than the amount of time ordinarily required for a child with the appellant's physical needs. She again explained that a PCA may offer "hands-on" assistance when the appellant puts on his clothing. This means the "donning of his upper extremity clothing; donning his lower extremity clothing." Testimony. The MassHealth representative emphasized, "any behavioral issues are parental responsibility." Testimony.

The appellant's mother responded that it typically takes longer than five minutes to dress the appellant, and also, she is confused that this request only asked for one episode of dressing per day. The appellant will change clothes multiple times per day. She stated, "he does get dirty when he is away and comes home from school and I'm having to give him a bath and then change him again." Testimony. The appellant's mother further stated, "He gets extremely dirty, you know, especially with him only eating with his hands. He doesn't use utensils yet. That's not even including getting him dressed in his pajamas at night." Testimony. In response to this testimony, the MassHealth representative stated that the appellant's PCM agency only requested one episode of dressing per day, and typically, that means that it is to get the appellant dressed for the day. If the appellant needs more episodes of dressing, the appellant's PCM agency must request those episodes.

Undressing

The appellant requested eight minutes per episode, 1 time per day, 7 days per week (8x1x7) for PCA assistance with undressing. MassHealth modified this request to three minutes per episode, 1 time per day, 7 days per week (3x1x7). The MassHealth representative testified that the reason for this modification was that the time requested for undressing is longer than the amount of time ordinarily required for a child with the appellant's physical needs. She again explained that a PCA may offer "hands-on" assistance when the appellant removes his clothing. This means the "doffing of his upper extremity clothing; doffing his lower extremity clothing." Testimony. The MassHealth representative again emphasized that supervision and cueing are behavioral issues, which are a parental responsibility under the regulations. Testimony.

The appellant's mother responded that it also takes longer than three minutes to undress the appellant. If he is having a "good day" behaviorally, everything goes fine. She stated that when the appellant is having a "bad day," then he "doesn't want to be touched or, you know, for us to get him dressed, it does take a lot more time." The appellant's mother also stated that she works outside the home, and there are times when the appellant is being dressed or undressed and she is not present in the home to assist the appellant's PCA with his behaviors. Testimony.

In response, the MassHealth representative stated that what the appellant's mother is doing during the undressing and dressing episodes is a "non-covered service" under the MassHealth regulations. She stated, "the coaching, supervising, or redirecting a consumer," are non-covered services, and also, "babysitting is a non-covered service." Testimony. She further testified, "So, this consumer is ■ years old. He's unable to direct his own care for the PCA program. He is a minor. So, the surrogate legal guardians would be the parents. It is the legal guardian or parent's responsibility to provide the supervision of the child and to direct the PCA. So, if the parent is not there, then that is considered babysitting." Testimony. The appellant's mother then testified that on a bad day, it can take 15-20 minutes per episode to undress the appellant.

Findings of Fact

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

1. The appellant is a MassHealth member aged ■ and he lives in the community with his parents, grandmother, great-grandmother, and two siblings.
2. Appellant has a primary diagnosis of Autism Spectrum Disorder (ASD). Testimony and Exhibit 5.
3. On April 25, 2025, appellant's PCM agency sent MassHealth a PA request seeking 7 hours and 30 minutes per week of PCA services for the period of 4/25/2025 to 4/24/2026. Testimony and Exhibit 5.

4. On April 25, 2025, MassHealth modified the request in six (6) categories and approved the appellant for 3 hours and 45 minutes per week for the service period 4/25/2025 to 4/24/2026; specifically, by modifying the time for “eating, bladder care, bowel care, grooming: nail care, dressing, and undressing.” Exhibits 1 and 5.
5. At hearing, MassHealth and the appellant’s mother resolved the dispute as to the eating category and agreed that this category would be approved at five minutes per episode, once per day, seven days per week (5x1x7 or 35 minutes per week), resolving the dispute related to PCA assistance with this task. Testimony.
6. At hearing, MassHealth and the appellant’s mother resolved the dispute as to the bladder care category and agreed that this category would be approved as modified by MassHealth, at three minutes per episode, six times per day, two days per week on weekends (3x6x2 or 36 minutes per weekend day) and at three minutes per episode, four times per day, five days per week during the week (3x4x5 or 60 minutes during weekdays), resolving the dispute related to PCA assistance with this task. Testimony.
7. At hearing, MassHealth and the appellant’s mother resolved the dispute as to the bowel care category and agreed that this category would be approved as modified by MassHealth, at five minutes per day, once per day, seven days per week (5x1x7 or 35 minutes per week), resolving the dispute related to PCA assistance with this task. Testimony.
8. The appellant seeks PCA assistance time with grooming: nail care as follows: ten minutes per episode, one episode per week (10x1x1). Testimony and Exhibit 5.
9. MassHealth approved zero minutes for PCA assistance with grooming: nail care. Testimony and Exhibit 5.
10. The appellant seeks PCA assistance with dressing as follows: ten minutes per episode, 1 time per day, 7 days per week (10x1x7). Testimony and Exhibit 5.
11. MassHealth approved PCA assistance with dressing as follows: five minutes per episode, 1 time per day, 7 days per week (5x1x7). Testimony and Exhibit 5.
12. The appellant seeks PCA assistance time with undressing as follows: eight minutes per episode, 1 time per day, 7 days per week (8x1x7). Testimony and Exhibit 5.
13. MassHealth approved PCA assistance with undressing as follows: three minutes per episode, 1 time per day, 7 days per week (3x1x7). Testimony and Exhibit 5.

Analysis and Conclusions of Law

MassHealth covers personal care services provided to eligible MassHealth members who can be appropriately cared for in the home when all of the following conditions are met:

- (1) The personal care services are prescribed by a physician or a nurse practitioner who is responsible for the oversight of the member's health care.
- (2) The member's disability is permanent or chronic in nature and impairs the member's functional ability to perform ADLs and IADLs without physical assistance.
- (3) The member, as determined by the personal care agency, requires physical assistance with two or more of the following ADLs as defined in 130 CMR 422.410(A):
 - (a) mobility, including transfers;
 - (b) medications,
 - (c) bathing or grooming;
 - (d) dressing or undressing;
 - (e) range-of-motion exercises;
 - (f) eating; and
 - (g) toileting.
- (4) The Division has determined that the PCA services are medically necessary and has granted a prior authorization for PCA services.

See 130 CMR 422.403(C).

Here, there is no dispute that appellant meets all the prerequisites to qualify for PCA services. This appeal addresses whether MassHealth allotted sufficient time, in accordance with program regulations, for appellant to receive PCA assistance to meet his care needs. The requested services must also be medically necessary for the prior authorization request to be approved. MassHealth will not pay a provider for services that are not medically necessary and may impose sanctions on a provider for providing or prescribing a service or for admitting a member to an inpatient facility where such service or admission is not medically necessary.

A service is "medically necessary" if:

- 1) it is reasonably calculated to prevent, diagnose, prevent worsening of, alleviate, correct, or cure conditions in the member that endanger life, cause suffering or pain, cause physical deformity or malfunction, threaten to cause or to aggravate a handicap, or result in illness or infirmity; and
- 2) there is no other medical service or site of service, comparable in effect,

available, and suitable for the member requesting the service, that is more conservative or less costly to the Division. Services that are less costly to the Division include, but are not limited to, health care reasonably known by the provider or identified by the Division pursuant to a prior authorization request, to be available to the member through sources described in 130 CMR 450.317(C), 503.007, or 517.007.

- (B) Medically necessary services must be of a quality that meets professionally recognized standards of health care, and must be substantiated by records including evidence of such medical necessity and quality. A provider must make those records, including medical records, available to the Division upon request. (See 42 U.S.C. 1396a(a)(30) and 42 CFR 440.230 and 440.260.)
- (C) A provider's opinion or clinical determination that a service is not medically necessary does not constitute an action by the MassHealth agency.

See 130 CMR 450.204.

Pursuant to 130 CMR 422.410(A), activities of daily living include the following:

- (1) mobility: physically assisting a member who has a mobility impairment that prevents unassisted transferring, walking, or use of prescribed durable medical equipment;
- (2) assistance with medications or other health-related needs: physically assisting a member to take medications prescribed by a physician that otherwise would be self-administered;
- (3) bathing or **grooming: physically assisting a member with basic care such as bathing, personal hygiene, and grooming skills;**
- (4) **dressing or undressing: physically assisting a member to dress or undress;**
- (5) passive range-of-motion exercises: physically assisting a member to perform range-of-motion exercises;
- (6) eating: physically assisting a member to eat. This can include assistance with tube-feeding and special nutritional and dietary needs; and
- (7) toileting: physically assisting a member with bowel and bladder needs.

Pursuant to 130 CMR 422.410(B), instrumental activities of daily living include the following:

- (1) household services: physically assisting with household management tasks that are incidental to the care of the member, including laundry, shopping, and housekeeping;

- (2) meal preparation and clean-up: physically assisting a member to prepare meals;
- (3) transportation: accompanying the member to medical providers; and
- (4) special needs: assisting the member with:
 - (a) the care and maintenance of wheelchairs and adaptive devices;
 - (b) completing the paperwork required for receiving PCA services; and
 - (c) other special needs approved by the MassHealth agency as being instrumental to the health care of the member.

MassHealth **does not cover** any of the following as part of the PCA program or the transitional living program:

- (A) social services, including, but not limited to, **babysitting**, respite care, vocational rehabilitation, sheltered workshop, educational services, recreational services, advocacy, and liaison services with other agencies;
- (B) medical services available from other MassHealth providers, such as physician, pharmacy, or community health center services;
- (C) **assistance provided in the form of cueing, prompting, supervision, guiding, or coaching;**
- (D) PCA services provided to a member while the member is a resident of a nursing facility or other inpatient facility;
- (E) PCA services provided to a member during the time a member is participating in a community program funded by MassHealth including, but not limited to, day habilitation, adult day health, adult foster care, or group adult foster care;
- (F) **services provided by family members**, as defined in 130 CMR 422.402;
- (G) **surrogates**, as defined in 130 CMR 422.402; or
- (H) PCA services provided to a member without the use of EVV as required by the MassHealth agency.

See 130 CMR 422.412 (emphases added).

The appeal is dismissed as to PCA assistance with eating because at hearing, the parties were able to resolve the dispute in this category of PCA assistance. After discussion between the MassHealth representative and the appellant's mother, it was agreed that this category would be approved at five minutes per episode, once per day, seven days per week (5x1x7, or 35 minutes per week), which resolved the dispute related to PCA assistance with this task.

This portion of the appeal is therefore DISMISSED.

The appeal is dismissed as to PCA assistance with bladder care because at hearing, the parties were able to resolve the dispute in this category of PCA assistance. The appellant's representative

agreed to accept MassHealth's modification for this category of three minutes per episode, six times per day, two days per week on weekends (3x6x2, or 36 minutes per weekend day) and three minutes per episode, four times per day, five days per week during the week (3x4x5 or 60 minutes total during weekdays), which resolved the dispute related to PCA assistance with this task.

This portion of the appeal is therefore DISMISSED.

The appeal is dismissed as to PCA assistance with bowel care because at hearing, the parties were able to resolve the dispute in this category of PCA assistance. The appellant's representative agreed to accept MassHealth's modification for this category of five minutes per day, once per day, seven days per week (5x1x7, or 35 minutes per week) which resolved the dispute related to PCA assistance with this task.

This portion of the appeal is therefore DISMISSED.

As to the appellant's request for PCA assistance with grooming: nail care, this portion of the appeal is denied. The appellant requested 10 minutes per episode of PCA assistance with nail cutting, one time per week (10x1x1), and MassHealth modified this category to zero minutes per week. MassHealth modified this request to zero minutes per week because MassHealth determined that due to the age of the appellant, ■ years old, the task as requested is parental responsibility under the regulations. The MassHealth representative was persuasive when she explained that no child the age of the appellant would be able to cut his or her own nails, regardless of their abilities.

This portion of the appeal is therefore DENIED.

As to the appellant's request for PCA assistance with dressing, this portion of the appeal is denied. The appellant requested ten minutes per episode, 1 time per day, 7 days per week (10x1x7, or 70 minutes per week) for PCA assistance with dressing. MassHealth modified this request to five minutes per episode, 1 time per day, 7 days per week (5x1x7, or 35 minutes per week). Here again, the MassHealth representative's testimony was persuasive when she testified that the reason for this modification was that the time requested is longer than the amount of time ordinarily required for a child with the appellant's physical needs. Furthermore, I agree with the MassHealth representative that the appellant's mother's description of the task of dressing shows that this task involves a lot of supervision, cueing, and motivating the appellant to participate in the act of dressing, but it does not concern the actual PCA task of physically donning the appellant's clothing. The appellant's mother also wanted more episodes of dressing per day; however, the appellant only requested one episode of dressing per day, and MassHealth cannot approve more time or more episodes than what was requested in the prior authorization request from the PCM agency.

This portion of the appeal is therefore DENIED.

As to the appellant's request for PCA assistance with undressing, this portion of the appeal is denied. The appellant requested eight minutes per episode, 1 time per day, 7 days per week (8x1x7, or 56 minutes) for PCA assistance with undressing. MassHealth modified this request to three minutes per episode, 1 time per day, 7 days per week (3x1x7, or 21 minutes per week). Here again, the MassHealth representative's testimony was persuasive when she testified that the reason for this modification was that the time requested is longer than the amount of time ordinarily required for a child with the appellant's physical needs. Again, I agree with the MassHealth representative that the appellant's mother's description of the task of undressing shows that this task involves a lot of supervision, cueing, and motivating the appellant to participate in the act of undressing, and the time that it takes for the actual PCA task of physically removing the appellant's clothing is much less than the time requested.

This portion of the appeal is therefore also DENIED.

Order for MassHealth

For the prior authorization period 4/25/2025 to 4/24/2026, approve the following amounts of PCA assistance for the appellant:

- Eating: 5x1x7 (35 minutes per week);
- Bladder care: 3x6x2 (36 minutes on weekend days), and 3x4x5 (60 minutes on weekdays);
- Bowel Care: 5x1x7 (35 minutes per week);
- Grooming (nail care): zero minutes per week;
- Dressing: 5x1x7 (35 minutes per week); and
- Undressing: 3x1x7 (21 minutes per week).

Notification of Your Right to Appeal to Court

If you disagree with this decision, you have the right to appeal to court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court, within 30 days of your receipt of this decision.

Implementation of this Decision

If this decision is not implemented within 30 days after the date of this decision, you should contact your MassHealth Enrollment Center. If you experience problems with the implementation of this decision, you should report this in writing to the Director of the Board of Hearings, at the address on the first page of this decision.

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

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