

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied in part; Approved in part	Appeal Number:	2511176
Decision Date:	10/24/2025	Hearing Date:	10/02/2025
Hearing Officer:	Sharon Dehmand		

Appearance for Appellant:



Appearance for MassHealth:

Robin Brown, O.T., Clinical Appeal 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:	Denied in part; Approved in part	Issue:	Prior Authorization; PCA Services
Decision Date:	10/24/2025	Hearing Date:	10/02/2025
MassHealth's Rep.:	Robin Brown, O.T.	Appellant's Rep.:	[REDACTED]
Hearing Location:	Remote	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 June 24, 2025, MassHealth modified the appellant's prior authorization request for personal care attendant (PCA) services. See 130 CMR 450.303, 130 CMR 450.204, and Exhibit 1. The appellant filed a timely appeal on July 30, 2025. See 130 CMR 610.015(B) and Exhibit 2. A decision regarding the scope or amount of assistance is valid ground for appeal before the Board of Hearings. See 130 CMR 610.032(A)(3).

Action Taken by MassHealth

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

Issue

Whether MassHealth was correct in modifying the appellant's request for PCA services pursuant to See 130 CMR 450.303; 130 CMR 450.204; 130 CMR 422.410; 130 CMR 422.412; 130 CMR 438.410.

Summary of Evidence

All parties participated telephonically. MassHealth was represented by a registered occupational

therapist and clinical appeals reviewer. The appellant was represented by her son, who was her appeal representative. The appellant's identity was verified. The following is a summary of the testimony and evidence provided at the hearing:

The MassHealth representative testified that the documentation submitted shows that the appellant is over 65 years of age with a primary diagnosis of [REDACTED]. She also suffers from osteoarthritis, has a colostomy bag, is bedbound, and is totally dependent on her caregiver. See Exhibit 5, p. 12-13, 51. On June 23, 2025, the appellant's personal care management (PCM) agency, [REDACTED], submitted a prior authorization for PCA services requesting 33 hours and 30 minutes per week for the dates of service of June 29, 2025 to June 28, 2026. On June 24, 2025, MassHealth modified the request to 26 hours and 30 minutes per week. MassHealth made two (2) modifications related to PCA assistance, namely: eating and meal preparation. See generally Exhibit 5.

Eating

The appellant requested 10 minutes, 3 times per day, 7 days per week and 1 minute, 10 times per day, 7 days per week for PCA assistance with eating. MassHealth denied this request. The MassHealth representative testified that according to the nursing notes, the appellant is on aspiration precautions. See Exhibit 5, p. 51. Although the appellant's intake is limited to a dysphagia diet, she coughs with every bite or sip. Despite this, the appellant's daughter, who serves as her PCA, continues to feed her. She stated that due to the significant risk of aspiration and the associated dangers, feeding under these circumstances is considered a skilled nursing task and is therefore not covered by MassHealth's PCA program.

The appellant's son testified that his sister is the appellant's PCA and Home Health Aide (HHA). He agreed with the testimony of the MassHealth representative but stated that his sister has been performing this task without incident. He argued that the appellant's lack of hospitalization for pneumonia supports the claim that his sister can ably perform this task. The MassHealth representative reiterated that the appellant's condition requires the services of a skilled nurse.

Meal Preparation

The appellant requested 20 minutes, once per day, 7 days per week for PCA assistance with meal preparation. MassHealth denied this request. The MassHealth representative stated that the appellant receives her meals at no cost from another source. She added that since the appellant is on a dysphagia diet and at risk for aspiration, this task is not covered by MassHealth's PCA program.

The appellant's son confirmed that his mother receives her meals from the Meals on Wheels program. He stated that despite her condition, she maintains a good appetite and eats regularly. To accommodate this, his sister will need to modify the delivered solid food by

blending or softening it into a more liquid consistency so that the appellant can consume it. The MassHealth representative reiterated that due to the appellant's condition, this task is not covered by MassHealth's PCA program.

Findings of Fact

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

1. The appellant is over 65 years of age with a primary diagnosis of chronic kidney disease. (Testimony, Exhibit 4, and Exhibit 5).
2. The appellant also suffers from osteoarthritis, has a colostomy bag, is bedbound, and is totally dependent on her caregiver. (Testimony and Exhibit 5).
3. On June 23, 2025, MassHealth received a prior authorization for PCA services requesting 33 hours and 30 minutes per week for the dates of service of June 29, 2025 to June 28, 2026. (Testimony and Exhibit 5).
4. On June 24, 2025, MassHealth informed the appellant that it had modified the request to 26 hours and 30 minutes per week. (Testimony and Exhibit 1).
5. MassHealth made two (2) modifications related to PCA assistance, namely: eating and meal preparation. (Testimony and Exhibit 1).
6. The appellant requested 10 minutes, 3 times per day, 7 days per week and 1 minute, 10 times per day, 7 days per week for PCA assistance with eating. PCA assistance was denied for this request. (Testimony and Exhibit 5).
 - a. The appellant is on aspiration precautions and has a significant risk of aspiration.
 - b. Based on the appellant's condition, this service is considered a skilled nursing service.
7. The appellant requested 20 minutes, once per day, 7 days per week for PCA assistance with meal preparation. PCA assistance was denied for this request. (Testimony and Exhibit 5).
 - a. The appellant maintains a good appetite and eats regularly.
 - b. The PCA modifies the delivered solid food into a more liquid consistency by blending or softening it.
8. The appellant filed a timely appeal on July 30, 2025. (Exhibit 2).

Analysis and Conclusions of Law

Regulations concerning personal care attendant (PCA) services are found at 130 CMR 422.000, et seq. PCA is defined as a person who is hired by the member or surrogate to provide PCA services. See 130 CMR 422.402. PCA services are physical assistance with activities of daily living (ADLs) and instrumental activities of daily living (IADLs), as described in 130 CMR 422.410. Id.

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 PCA services are authorized for the member in accordance with 130 CMR 422.416.
- (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 PCM agency, requires physical assistance with two or more of the ADLs as defined in 130 CMR 422.410(A).
- (4) The MassHealth agency has determined that the PCA services are medically necessary.¹

See 130 CMR 422.403(C).

The regulations concerning ADLs and IADLs in 130 CMR 422.410 are as follows:

(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;

¹ 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. See 130 CMR 450.204(A).

- (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.

Here, there is no dispute that the appellant meets all the requirements to qualify for PCA services. The issue is whether MassHealth allowed sufficient time in accordance with the program regulations.

The following are considered “non-covered services” in the PCA 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.

See 130 CMR 422.412.

Additionally, MassHealth regulations consider certain services as skilled nursing services 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. See 130 CMR 438.410(A)(1). 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. See 130 CMR 438.410(A)(2). When a service can be safely and effectively performed (or self-administered) by the average nonmedical person without the direct intervention of an RN or LPN, the service is not considered a nursing service, unless there is no one trained and able to provide it. See 130 CMR 438.410(A)(3).

At issue in this appeal were modifications of time requested for PCA assistance with an ADL and an IADL. See 130 CMR 422.402. The following ADL and IADL were the subject of modifications: eating, and meal preparation. See Exhibit 5, pp. 24, 34.

Eating

MassHealth denied the requested time of 10 minutes, 3 times per day, 7 days per week and 1 minute, 10 times per day, 7 days per week for eating because it determined that the requested

service does not meet professionally recognized standards of health care.

The MassHealth representative testified that based on the record the appellant is on aspiration precautions. See Exhibit 5, p. 51. Although the appellant's intake is limited to a dysphagia diet, she coughs with every bite or sip and has a significant risk of aspiration. As such, feeding under these circumstances is considered a skilled nursing task and is therefore not covered by MassHealth's PCA program.

The appellant's son agreed with the complexities in the appellant's care and her significant risk of aspiration. He stated that since his sister has been performing this task without incident, she should be allowed to perform this task as his mother's PCA. The MassHealth representative responded that based on the appellant's condition, MassHealth's policies regarding skilled services state that the agency will not pay a PCA for skilled tasks such as this.

Here, there is no dispute that the appellant is at a significant risk of aspiration. The regulations specifically state that 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. See 130 CMR 450.204(B). Here, the nursing notes reflect that although the appellant's intake is limited to a dysphagia diet, she coughs with every bite or sip. Despite this, the appellant's daughter, who serves as her PCA, continues to feed her. See Exhibit 5, p. 51.

It is understandable that a daughter may wish to assist her mother with feeding despite the high risk of aspiration and that she may be performing this task competently. However, feeding a person with significant aspiration risk requires skills beyond the scope of unskilled care. The regulations governing nursing services state that "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." See 130 CMR 438.410(A)(2). Based on the record, I find that because of the appellant's condition, the assistance with the task of eating in this case is considered a nursing service. As such, MassHealth correctly denied the requested time for the PCA service hours for eating because only an RN or LPN can safely and effectively provide the service. See id. The appellant has the burden "to demonstrate the invalidity of the administrative determination." Andrews v. Division of Medical Assistance, 68 Mass. App. Ct. 228 (2007). Here, the appellant has failed to do so. Accordingly, the appellant's request for additional time for this task is DENIED.

Meal Preparation

MassHealth denied the appellant's requested 20 minutes, once per day, 7 days per week for meal preparation because it determined that the appellant receives her meals at no cost from another source and that the requested service does not meet professionally recognized standards of health care.

The appellant's son confirmed that his mother receives her meals from the Meals on Wheels program. He stated that despite her condition, she maintains a good appetite and eats regularly. To accommodate this, his sister will need to modify the delivered solid food by blending or softening it into a more liquid consistency so that the appellant can consume it.

It is obvious that the appellant must receive nutrition. It is equally clear from the record that the appellant is on a dysphagia diet, which requires her food to be modified to a liquid consistency. The act of blending or softening food is not a skilled task. While for the reasons stated supra, feeding the appellant who is at high risk of aspiration may require skilled nursing intervention, blending her food does not. Thus, I find that this task is covered by MassHealth's PCA program. As such, MassHealth erroneously denied the requested time for the PCA service hours for meal preparation. See id. Accordingly, the appellant's request for additional time for this task is APPROVED.

Order for MassHealth

For the prior authorization period beginning on June 29, 2025 ending on June 28, 2026 approve the following PCA service hours:

- Meal Preparation: 20 minutes, once per day, 7 days 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.

Sharon Dehmand, Esq.
Hearing Officer

Board of Hearings

CC:

[Redacted]

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