

# Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2511777
Decision Date:	2/13/2026	Hearing Dates:	9/17/2025, 12/23/2025
Hearing Officer:	Emily Sabo		

**Appearance for Appellant:**

Pro se

**Appearances for MassHealth:**

Robin Brown, Occupational Therapist, Optum (both days); Heather Adams, R.N., Optum (day 1); Allison Langlois, Senior Program manager for PCA Program, MassHealth Office of Long-Term Services and Supports (OLTSS) (day 1); Candice Smallwood, Program Coordinator, OLTSS (day 2)



*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>	2/13/2026	<b>Hearing Dates:</b>	9/17/2025; 12/23/2025
<b>MassHealth's Reps.:</b>	Robin Brown, Heather Adams, Allison Langlois, Candice Smallwood	<b>Appellant's Rep.:</b>	Pro se
<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 July 31, 2025, MassHealth notified the Appellant that it was terminating his personal care attendant (PCA) services effective August 13, 2025, because the Appellant had been directed to find a surrogate and he had not found one. Exhibit 1. The notice states: "Your PCM agency, Independence Associates, conducted an assessment in accordance with 130 CMR 422.422(A) and determined that you need a surrogate to help manage the PCA program. You are therefore required to obtain a surrogate in accordance with 130 CMR 422.420(A)(23)." *See* 130 CMR 422.422(B)(3); Exhibit 1. The Appellant filed this appeal with the Board of Hearings in a timely manner on August 12, 2025. *See* 130 CMR 610.015; Exhibit 2. In his appeal, he states that the reason for his appeal is the Electronic Visit Verification (EVV) program, and that "[n]o device or technical training provided after request, cannot provide email address for EVV Program." Exhibit 2 at 1. Termination of services is a valid ground for appeal to the Board of Hearings. *See* 130 CMR 610.032.

### Action Taken by MassHealth

MassHealth terminated the Appellant's PCA services because he did not designate a surrogate.

## Issue

Was MassHealth correct in terminating the Appellant's PCA services because he did not designate a surrogate?

## Summary of Evidence

The hearing was held by telephone over the course of two days.<sup>1</sup> MassHealth was represented by an occupational therapist and reviewer through Optum and professionals from the Office of Long-Term Services and Supports (OLTSS). The Appellant represented himself and verified his identity.

The Appellant is wheelchair-bound and has paralysis related to a spinal cord injury. Exhibit 5. He requires assistance with mobility, passive range of motion exercises, bathing, grooming, toileting, medications, meal preparation, laundry, housekeeping, shopping, wheelchair maintenance, and medical transportation. *Id.* For the service period of June 30, 2024, to June 29, 2025, MassHealth authorized the Appellant to receive 69 hours, and 30 minutes of time for PCA services per week. *Id.* at 4. On June 24, 2025, MassHealth extended these service hours until July 29, 2025. *Id.* The prior authorization request states that the Appellant does not require a surrogate. *Id.* at 42.

The record includes two pages of activity notes from [REDACTED]. *Id.* at 48-49. The notes for November 12, 2024, state that an employee of [REDACTED]

Called [Appellant] to see if he has been able to obtain device and email address as he has been told he will need one for EVV to remain on PCA program. He stated neither him or PCA have internet access and is unable to request a device and unable to create email address. He stated 'How can I request a device when I don't have internet access.' He said that he has requested a device from anyone who has called him regarding EVV. I sent follow up email to [REDACTED] requesting ST go out for in person visit to maybe help obtain a device.

*Id.* at 48. The notes indicate that [REDACTED], an employee of [REDACTED] left the Appellant a voicemail December 16, 2024, asking him to call her back and provide an email address for EVV, but there is no indication that anyone ever visited the Appellant or provided him with assistance or training. *Id.* The next communications were from [REDACTED] leaving messages for him in June 2025 requesting his email address, and that on June 18, 2025, the Appellant requested a

---

<sup>1</sup> After the first day of hearing, the record was held open. Based on information provided, the hearing was reconvened for a second day.

surrogate to help him set up an email address. *Id.* at 48-49.

The MassHealth OLTSS representative testified that the Appellant's personal care management (PCM) agency, [REDACTED], stated that the Appellant needed a surrogate due to his struggles with email and EVV, and notified the Appellant by letter dated June 26, 2025, that he was required to choose someone to be his surrogate within thirty days of the date of the letter. Exhibit 5. The OLTSS representative testified that the PCM agency notified MassHealth that no surrogate was chosen, so MassHealth terminated the Appellant's PCA services, effective August 13, 2025.<sup>2</sup>

The Appellant is an adult over the age of 65. The Appellant testified that he has participated in the PCA program for 30 years and that he is not good with computers. The Appellant testified that he made an effort to learn and that when he asked [REDACTED] about it, he did not get answers. The Appellant testified that he was told that he did not need to use a computer and that a device would be provided. He testified that [REDACTED] was very focused on getting his email address. He testified that he felt harassed and was not getting any help or answers. The Appellant testified that he knew someone who uses [REDACTED] as their PCM agency, and that [REDACTED] had helped with everything related to EVV and using a device.<sup>3</sup> The Appellant testified that he had requested a surrogate because he was trying to get answers to his questions regarding EVV. The Appellant testified that one of his PCAs has no experience with computers. The Appellant testified that he lives alone and handles all of his own bills and administrative functions. The Appellant testified that he does not need a surrogate and that most people are too busy to serve as surrogates. The Appellant expressed an interest in changing his PCM agency from [REDACTED] to [REDACTED]

The record was held open until October 3, 2025, for the Appellant to switch to [REDACTED] as his PCM agency and have a new evaluation with them, which the MassHealth representative testified was required when a consumer switches PCM agencies. Exhibit 6. The record was held open until October 24, 2025, for MassHealth's review and response to the new evaluation. *Id.* The MassHealth representatives responded on September 24, 2025, that the Appellant's prior authorization, which is under aid pending protection, was transferred from [REDACTED] to [REDACTED]. Exhibit 7. On October 29, 2025, the MassHealth representative stated that the Appellant had transferred to [REDACTED] as his PCM agency, but that the re-evaluation did not seem to be completed. Exhibit 8. On the second day of hearing, the MassHealth representative testified that no re-evaluation had occurred and it was listed as pending scheduling. The MassHealth representative explained that first a skills trainer visits the Appellant and assesses his needs, and then a nurse does the same. The MassHealth representative testified that she would monitor the case and notify the parties if the evaluation was completed. The Appellant testified he met with a skills trainer on December 12,

---

<sup>2</sup> The Appellant continues to receive PCA services because he selected to have aid pending appeal, and filed his appeal prior to the services terminating. Exhibit 2; 130 CMR 610.036(A).

<sup>3</sup> EVV, or electronic visit verification, is defined at 130 CMR 422.402 as the method or system designated or approved by EOHHS to electronically verify [PCA] service delivery in the form and format as required by the MassHealth agency.

2025, and that she told him that he had a prior approval for 69 hours and 30 minutes per week for PCA time through February 2026.

On January 29, 2026, the MassHealth representative wrote that the “portal shows that a new re-evaluation has been started but has not been submitted for review currently. However, the PCM has submitted to [e]xtend the end date of his current [prior authorization], with Aid Pending approved hours on it, until March 13, 2026.” Exhibit 11 at 1.

## Findings of Fact

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

1. The Appellant is over the age of 65. Exhibit 4.
2. For the service period of June 30, 2024, to June 29, 2025, MassHealth authorized the Appellant to receive 69 hours, and 30 minutes of time for PCA services per week. On June 24, 2025, MassHealth extended these service hours until July 29, 2025. Exhibit 5.
3. The Appellant’s PCM agency for this service period was [REDACTED]. Testimony, Exhibit 5.
4. [REDACTED] did not visit with the Appellant or otherwise provide him with assistance in setting up an email address or learning EVV. Testimony, Exhibit 5.
5. The Appellant requested a surrogate to assist him with setting up an email address and learning EVV. Testimony, Exhibit 5.
6. On June 26, 2025, [REDACTED] directed the Appellant to find a surrogate within thirty days. Testimony, Exhibit 5.
7. On July 31, 2025, MassHealth notified the Appellant that it was terminating his PCA services, effective August 13, 2025, because he had not selected a surrogate. Exhibit 1.
8. On August 12, 2025, the Appellant filed a timely appeal with the Board of Hearings, regarding the July 31, 2025 notice. Exhibit 2.
9. The Appellant has aid pending appeal. Testimony.
10. In its prior authorization request, [REDACTED] indicated that the Appellant does not require a surrogate. The Appellant requested a surrogate in an attempt to receive EVV training. The Appellant independently manages his financial matters and has managed his participation in the PCA program for several decades. Testimony, Exhibit 5.

11. The Appellant requested to switch his PCM agency from [REDACTED] to [REDACTED]. Testimony.
12. As of September 24, 2025, the Appellant's PCM agency was switched from [REDACTED] to [REDACTED]. Exhibits 7 and 8.
13. As of January 29, 2026, [REDACTED] has not submitted a prior authorization request for re-evaluation for PCA services for the Appellant. Exhibit 11.
14. [REDACTED] has requested, from MassHealth, an extension of the appellant's PCA services through March 13, 2026.
15. The Appellant is wheelchair-bound and has paralysis related to a spinal cord injury. Exhibit 5.
16. The Appellant requires assistance with mobility, passive range of motion, bathing, grooming, toileting, medications, meal preparation, laundry, housekeeping, shopping, wheelchair maintenance, and medical transportation. Exhibit 5.

## **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 (ADLs) and instrumental activities of daily living (IADLs) as described in 130 CMR 422.410.

Pursuant to 130 CMR 422.403(C), MassHealth covers PCA services when: (1) they are prescribed by a physician; (2) the member's disability is permanent or chronic in nature; (3) the member 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; and (4) MassHealth has determined that the PCA services are medically necessary and has granted a prior authorization for PCA services.

Activities of daily living are listed at 130 CMR 422.410(A) and include mobility, assistance with medications or other health-related needs, bathing/grooming, dressing and undressing, passive range-of-motion exercises, eating, and toileting (including bowel care and bladder care). MassHealth pays for PCA time in physically assisting members to perform the aforementioned activities of daily living.

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 422.402 defines “surrogate” as follows:

the member's legal guardian, a family member, or other person as identified in the service agreement, who is responsible for performing certain PCA management tasks that the member is unable or unwilling to perform.

Furthermore, pursuant to 130 CMR 422.402, “Assessment” is defined as follows:

- a PCM agency's determination of a member's ability to manage the PCA program independently and the ability of a surrogate or administrative proxy, if any, to manage the PCA program on behalf of the member. The PCM agency conducts an assessment of a member and surrogate or administrative proxy, if any, in accordance with 130 CMR 422.422(A) and the contract for PCM functions. The result of an assessment of the member is a determination that the member either requires a surrogate or administrative proxy to receive PCA services or can manage the PCA program independently. The result of an assessment of the surrogate or administrative proxy, if any, is a determination about whether the surrogate or administrative proxy can appropriately and effectively manage the PCA program on behalf of the member.

The operating procedures for the PCA program can be found at 130 CMR 422.422: “PCA Program: Personal Care Management Agency Operating Procedures:”

(A) Assessment. For each member determined initially eligible for PCA services in accordance with 130 CMR 422.421(A)(2), the PCM agency must conduct a written assessment of the member's capacity to manage PCA services independently and, if applicable, a written assessment of the ability of the surrogate or administrator proxy to manage PCA services on the member's behalf. If a member has a court-appointed legal

guardian or is a minor child, a surrogate is required, and the agency is not required to conduct an assessment of the member, but is required to conduct an assessment of the surrogate. The PCM agency must document the assessments in the application for PCA services and in the member's record. The assessments must be in a form and format required by the MassHealth agency. The process for assessment of the member must include the member and may include participation of family members or other member representatives. The PCM agency must:

(1) based on an in-person visit with the member, conduct a written assessment of the member's ability to manage PCA services and to function as an employer of PCAs. The assessment must be conducted before submitting an initial request for prior authorization for PCA services to the MassHealth agency, at least annually thereafter, and whenever necessary due to a change in circumstances that may affect a member's ability to manage PCA services independently or function as an employer of PCAs. The result of an assessment of the member is that the member either:

(a) is able to perform independently all tasks required to manage the PCA program (The PCM agency will conduct a PCA evaluation and submit the request for prior authorization to the MassHealth agency);  
or

(b) requires the assistance of a surrogate or administrative proxy to perform some or all of the PCA management tasks that the member is unable or unwilling to perform. (A surrogate or administrative proxy must be identified before the PCM agency submits a prior-authorization request to the MassHealth agency);

(2) if the member requires the assistance of a surrogate or administrative proxy, based on an in-person visit with the surrogate or administrative proxy, conduct a written assessment of the ability of the surrogate or administrative proxy to manage PCA services on behalf of the member. The assessment must be conducted before submitting an initial request for prior authorization for PCA services to the MassHealth agency and whenever necessary due to a change in circumstances that may affect the ability of the surrogate or administrative proxy to manage PCA services on the member's behalf. The result of an assessment of a surrogate or administrative proxy is that the surrogate or administrative proxy is either:

(a) able to perform the tasks designated to the surrogate or administrative proxy to manage the PCA program on behalf of the member; or

(b) unable to perform the tasks designated to the surrogate or administrative proxy to manage the PCA program on behalf of the member;

(3) complete an assessment of the member at the time of the member's reevaluation, which must occur at least annually and whenever necessary due

- to a change in circumstances that may affect a member's ability to manage PCA services independently or function as an employer of PCAs;
- (4) complete an assessment of any new surrogate or administrative proxy; and
  - (5) review the assessment of the member and modify it, as appropriate, when:
    - (a) the member's medical, cognitive, or emotional condition changes in a way that affects the member's ability to manage PCA services independently;
    - (b) the member exhibits a pattern of overutilization of authorized PCA services, an inappropriate use of PCA services, or potential fraud, and does not discontinue such behavior after intervention from a skills trainer; or
    - (c) the member, the fiscal intermediary, or the MassHealth agency requests review of an assessment; and
  - (6) review the assessment of the surrogate or administrative proxy and modify it, as appropriate, when:
    - (a) there is a change in circumstances that may affect the ability of the surrogate or administrative proxy to manage PCA services on behalf of the member; or
    - (b) the member, the surrogate or administrative proxy, the fiscal intermediary, or the MassHealth agency requests review of an assessment; and
  - (7) review the assessment of the member with the member and obtain the signature of the member. If the member does not agree with the assessment, provide a process for resolving the disagreement; and
  - (8) notify the MassHealth agency and the fiscal intermediary in writing of any change in the member's assessment findings.

Here, MassHealth terminated the Appellant's PCA services, despite finding that the Appellant is clinically eligible for PCA services. The Appellant experienced a spinal cord injury more than 30 years ago, which led to paralysis. His PCM agency requested, and MassHealth approved, time for a PCA to assist him with mobility, passive range of motion, bathing, grooming, toileting, medications, meal preparation, laundry, housekeeping, shopping, wheelchair maintenance, and medical transportation, as medically necessary. 130 CMR 450.204(A), Exhibit 5. [REDACTED] reported to MassHealth that the Appellant had not found a surrogate within 30 days of its June 26, 2025 notice to the Appellant. As a result of this report, MassHealth ended the Appellant's PCA services effective August 13, 2025.

I credit the Appellant's testimony that he requested a surrogate because he wanted assistance from MassHealth and [REDACTED] with learning how to use the EVV system. [REDACTED] did not visit with the Appellant or otherwise provide him with assistance in setting up an

email address or learning EVV.<sup>4</sup> There is also no evidence in the record to suggest that [REDACTED] performed a written assessment in accordance with 130 CMR 422.422. The evidence MassHealth submitted in support of terminating the Appellant's medically necessary PCA services does not show that a recent assessment of the Appellant's ability to manage the administrative requirements of the PCA program was conducted prior to the PCM agency initiating the termination of services, despite a change in circumstances having occurred, namely, the implementation of the EVV requirement. The Appellant has successfully managed his own participation in the PCA program for 30 years.

I conclude that, based on the evidence before me, the Appellant does not need to name a surrogate to manage the PCA program. Instead, the PCM agency<sup>5</sup> must provide more meaningful assistance to the Appellant regarding use of the EVV system successfully.<sup>6</sup>

MassHealth's decision to terminate the Appellant's PCA services effective August 13, 2025, was incorrect. This appeal is APPROVED.

## Order for MassHealth

Rescind the July 31, 2025 notice.

Reinstate Appellant's prior level of services (69.5 PCA hours per week) effective August 13, 2025 through the date a new evaluation of the Appellant by [REDACTED], and a new prior authorization request for the Appellant's PCA services, are received and adjudicated by MassHealth.

## 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

---

<sup>4</sup> See also Exhibit 2 at 4 ("Will I receive EVV training? Yes. Every Consumer and PCA will receive training before they start using the EVV system. Training will be offered by [REDACTED] FI. Training for EVV will be offered online and in person. EVV training is mandatory for PCAs. PCAs will be paid after completing their mandatory training.").

<sup>5</sup> Now [REDACTED]. Exhibits 7 and 8.

<sup>6</sup> If at any time the PCM agency has reason to believe the Appellant needs a surrogate, it may revisit the issue of directing the Appellant to find a surrogate, and should assist him to find one that is suitable.

Board of Hearings

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

cc: Office of Long-Term Services and Supports