

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	DENIED	Appeal Number:	2513915
Decision Date:	11/10/2025	Hearing Date:	10/31/2025
Hearing Officer:	Sharon Dehmand		

Appearance for Appellant:

 Representative/Mother

Appearance for MassHealth:

Linda Phillips, R.N., Associate Director Appeals
and Regulatory Compliance;
Mary Brooks, R.N. Supervisor



*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	Issue:	Community Case Management (CCM)
Decision Date:	11/10/2025	Hearing Date:	10/31/2025
MassHealth's Rep.:	Linda Phillips Mary Brooks	Appellant's Rep.:	[REDACTED]
Hearing Location:	Remote	Aid Pending:	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 August 27, 2025, the MassHealth Community Case Management (CCM) terminated the appellant's continuous skilled nursing (CSN) services because he no longer requires a nursing visit of more than two continuous hours. See 130 CMR 414.408; 130 CMR 438.410; and Exhibit 1. The appellant filed this appeal in a timely manner on September 23, 2025. See 130 CMR 610.015(B); and Exhibit 2. An aid pending protection was put in place to protect the appellant's benefits. See 130 CMR 610.036. The termination of CSN services is a valid ground for appeal before the Board of Hearings. See 130 CMR 610.032.

Action Taken by MassHealth

MassHealth terminated the appellant's CSN services because he no longer requires a nursing visit of more than two continuous hours.

Issue

Whether MassHealth correctly determined that the appellant no longer requires a nursing visit of more than two continuous hours. See 130 CMR 438.410(B); 414.408(A).

Summary of Evidence

All parties participated telephonically. MassHealth was represented by the associate director of appeals and regulatory compliance for CCM as well as a nurse supervisor for CCM. The appellant's mother appeared on his behalf and verified his identity. The following is a summary of the testimony and evidence provided at the hearing:

The MassHealth representative stated that CCM provides authorization and coordination of MassHealth Long Term Services and Supports (LTSS), which includes continuous skilled nursing (CSN) and personal care attendant (PCA) services, to a defined population of MassHealth-eligible, medically complex members.

The appellant is under the age of [REDACTED] and was enrolled with CCM on July 23, 2008. His primary diagnosis is [REDACTED]. Associated diagnoses include a [REDACTED]. See Exhibit 5, p. 121. On July 11, 2025, MassHealth/CCM completed an in person LTSS nursing assessment of the appellant. Based on this assessment, MassHealth/CCM determined that only 6 hours per week of CSN services were medically necessary. See Exhibit 5, pp. 134-138. Because MassHealth/CCM determined that the appellant does not require a nursing visit of more than two continuous hours, the appellant does not meet medical necessity criteria for CSN services at this time. The MassHealth representative explained that although the appellant does not qualify for MassHealth CSN services, he still qualifies for MassHealth and that he may qualify for other services provided by MassHealth such as durable medical equipment, medical supplies, physical, occupation and speech therapy, and home health skilled nursing visits.

The MassHealth representative stated that in order for nursing services to be authorized by MassHealth, there must be a clearly identifiable, specific medical need for a nursing visit to provide nursing services, as described at 130 CMR 438.410 (A), of more than two continuous hours. MassHealth/CCM reviewed the following documentation made available to them in order to determine the number of CSN service hours that are medically necessary for the appellant:

- [REDACTED] (MD Orders - [REDACTED]), dated 6/16/2025. See Exhibit 5, pp. 166-176;
- [REDACTED] Nursing Notes Review by CCM, dated 5/15/2025-7/7/2025. See Exhibit 5, pp. 177-179;
- [REDACTED] Nursing Notes, dated 5/15/2025-7/7/2025. See Exhibit 5, pp. 180-342; and
- [REDACTED] - Section [REDACTED] dated 5/27/2025. See Exhibit 5, pp. 356-363.

Based on this LTSS needs assessment, MassHealth/CCM determined that only the following tasks are clearly identifiable, specific medical needs that justify CSN services, and calculated the

amount of time required to perform each nursing intervention. The following chart reflects the nursing time allotted in each body system category.¹

Nursing Interventions	Time	Freq.	Clinical Rationale/Medical Necessity	Total Mins Per Day
Teaching needs of the caregiver	0	0	[The appellant's mother] did not identify any teaching needs at this time.	0
Gastro-Intestinal (GI)/Nutrition				
CVL/PICC/Broviac Care	12	1	[Appellant's] central line dressing requires changing once per week. Dressing changes include setting up sterile supply, removing the old dressing, cleansing the site then the line, allowing the site to dry, and applying the new dressing. Time allotted for CVL dressing change is 30 minutes per week, is averaged to 5 minutes per day. Cap changes are required twice per week. Time allotted for cap changes is 5 minutes two times per week, is averaged to 2 minutes per day. Ethanol lock is instilled daily and includes cleansing, removing the cap, instilling the Ethanol and replacing the cap. Time allotted is 5 minutes per day, to include removing ethanol lock prior to TPN or saline bolus. Total time allotted in this section is 5+2+5=12 minutes per day.	12
Parenteral line assessment	10	1	Daily assessment of the CVL dressing, line and site is required for safety and integrity. Time allotted for CVL assessment and troubleshooting or responding to alarms is 1 minute per hour of use = 10 minutes per day.	10
TPN infusion management/frequency	28	1	TPN and Lipids (via dual bag) are administered via Culin pump over 10 hours per day. Time allotted for preparation of Lipids and TPN including adding the multivitamin to TPN, sanitize area and equipment, priming the line and starting the infusion is 20 minutes per day to include discontinuing of TPN and Lipids. Time allotted for saline flush before and after TPN	28

¹ Only those interventions deemed applicable by MassHealth are reflected in the chart. Other line items on the standardized form that MassHealth marked "Not Applicable" have been omitted and are not in dispute.

			administration is 5 minutes per day. Administration of Normal Saline via CVL for hydration due to vomiting episodes is required an average of once per week. Time allotted for administration of Normal Saline and flushing Heparin afterwards is 15 minutes once per week, averaged to 3 minutes per day. Total time allotted in this section is 20+5+3=28 minutes per day to include gastrointestinal (GI) assessment.	
Skilled Assessment/GI	0	0	Time allotted for GI assessment is included with skilled interventions.	0
Total Minutes Per Day				50
Total Hours Per Week				5.83

Exhibit 5, pp. 135-137.

The appellant's mother expressed her general disagreement with the discontinuation of CSN services. She stated that her child has been receiving CSN services since 2017 and that he should be able to continue to do so. Aside from her position that her child should continue to receive CSN services, she agreed with MassHealth's determination relevant to the amount of time required to perform the following nursing interventions:

- Gastro-Intestinal (GI)/Nutrition: CLV/PICC/Broviac Care (ethanol lock- 5 minutes per day);
- Gastro-Intestinal (GI)/Nutrition: (parenteral line assessment – 10 minutes per day);
- Gastro-Intestinal (GI)/Nutrition: TPN infusion management/frequency (saline flush- 5 minutes per day);

The appellant's mother disputed MassHealth's determination relevant to the amount of time required to perform the following nursing interventions:

- Gastro-Intestinal (GI)/Nutrition: CVL/PICC/Broviac Care (dressing changes – 30 minutes per episode, once per week, totaling 30 minutes per week; averaged to 5 minutes per day). The appellant's mother stated that because of the appellant's age, he tends to sweat more and to keep the site sterile, the dressing must be changed twice per week at the same time as the cap changes. She added that each dressing change takes at a minimum 7 to 12 minutes to complete, while the same procedure at a doctor's office typically takes around 15 minutes. The MassHealth representative responded that the appellant was allowed 30 minutes per week for the dressing change which would allow enough time for the appellant's dressing to be changed twice per week, 15 minutes per episode. The appellant's mother stated that she would feel more comfortable with 30 minutes per episode, 2 times per week.
- Gastro-Intestinal (GI)/Nutrition: CVL/PICC/Broviac Care (cap changes – 5 minutes per

episode, 2 times per week, totaling 10 minutes per week; averaged to 2 minutes per day). The appellant's mother stated that it takes approximately 10 minutes to safely complete the cap change and prevent infection. The MassHealth representative noted that the independent nurse did not request additional time for this task and that this task typically requires 5 minutes to complete. See Exhibit 5, pp. 205, 218, 231, 244, 257. The appellant's mother acknowledged that there is no documentation in the record supporting the need for more time. She said that her statement was based on her personal observation and reports from nurses who expressed feeling rushed. She added that maybe the nursing agency was not aware that they could request more time for this task.

- Gastro-Intestinal (GI)/Nutrition: TPN infusion management/frequency (TPN and Lipids preparation and take down – 20 minutes per day). The appellant's mother stated that this task takes an hour to complete. She said that the TPN take down alone takes 15 minutes. She added that she does this task herself on weekends and holidays, which is how she is able to testify to the duration. She said it takes longer than 20 minutes to allow for the TPN to warm up and then to be administered. The MassHealth representative stated that the time it takes for TPN warm up is not considered skilled nursing. She added that according to the clinical documentation, there is no notation regarding the need for more time. The MassHealth representative explained that after interviewing the appellant and his mother, MassHealth contacted the nurse case manager at the nursing agency to confirm the times for tasks. She said that the times allotted were substantiated by the nursing agency and no increase in time was requested. As such, the time allowed for this task is typically 20 minutes. The appellant's mother acknowledged that there are no notations in the nursing notes regarding the need for more time, but she argued that more time is needed.
- Gastro-Intestinal (GI)/Nutrition: TPN infusion management/frequency (normal saline and flushing Heparin afterwards – 15 minutes per week; averaged to 3 minutes per day). The appellant's mother testified that since the removal of the appellant's G-tube, his episodes of vomiting have increased. As such, she requested 20 minutes, twice per week, totaling 40 minutes per week. In response, the MassHealth representative agreed to allow the increase in time as requested for 20 minutes per episode, twice per week, totaling 40 minutes per week; averaged to 6 minutes per day.

In summary, the MassHealth representative stated that even with the additional time allowed, the appellant's revised CNS service hours will be 53 minutes per day which is still less than what is required to be clinically eligible for CNS services. The appellant's mother reiterated that the appellant's care requires 10 hours per day of CNS services and stated that it is unfair for MassHealth to break this down to minutes. The MassHealth representative stated that the appellant can still get skilled nursing visits to accommodate his needs. The appellant's mother stated that she understands, however, the availability of nurses has been problematic in the past and CNS services have been more convenient for her.

Next, the MassHealth representative stated that on August 18, 2025, MassHealth/CCM also

completed a PCA reevaluation and determined that there are no clearly identifiable, specific physical care needs for the appellant to perform the required activities of daily living (ADLs) and instrumental activities of daily living (IADLs). Based on this PCA assessment, the appellant is ambulatory, is able to make his needs known, and is independent with all ADLs. See Exhibit 5, pp. 139-151. As such, he does not qualify for PCA services.

The appellant's mother testified that the appellant is incontinent with his bladder overnight. He wears a diaper and uses bed pads. She added that he needs to be changed two to three times overnight and have his bed sheets changed and washed. The MassHealth representative responded that two or more ADLs are required to qualify for PCA services and laundry is an IADL.

Findings of Fact

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

1. The appellant is under the age of [REDACTED] and is a member of MassHealth's Complex Care Management (CCM) program. (Testimony and Exhibit 4).
2. The appellant enrolled with CCM on July 23, 2008. His primary diagnosis is [REDACTED]. Associated diagnoses include a [REDACTED] (Testimony and Exhibit 5).
3. On July 11, 2025, MassHealth/CCM completed an in person LTSS nursing assessment of the appellant. (Testimony).
4. Based on this assessment, MassHealth/CCM determined the amount of CSN services that were medically necessary and authorized the appellant to receive 6 hours per week of CSN services. (Testimony and Exhibit 5).
5. In making the decision regarding the amount of CSN services that are medically necessary for the appellant, the MassHealth representative reviewed the following documents:
 - a. [REDACTED]-Home Health Plan of Care and Certification, [REDACTED] Notes, [REDACTED] Skilled Nursing Notes, the appellant's [REDACTED] Plan. (Testimony and Exhibit 5).
6. Through a notice dated August 27, 2025, MassHealth terminated the appellant's continuous skilled nursing services because he no longer requires a nursing visit of more than two continuous hours. (Testimony and Exhibit 1).

7. On August 18, 2025, MassHealth/CCM also completed a PCA reevaluation and determined that there are no clearly identifiable, specific physical care needs for the appellant to perform the required activities of daily living (ADLs) and instrumental activities of daily living (IADLs). (Testimony).
8. The appellant filed this appeal in a timely manner on September 23, 2025. (Exhibit 2).
9. Aid pending protection was put in place to protect the appellant's benefits.
10. The appellant's mother did not contest MassHealth's determination relevant to the amount of time required to perform the following nursing interventions:
 - a. Gastro-Intestinal (GI)/Nutrition: CLV/PICC/Broviac Care (ethanol lock- 5 minutes per day);
 - b. Gastro-Intestinal (GI)/Nutrition: (parenteral line assessment – 10 minutes per day);
 - c. Gastro-Intestinal (GI)/Nutrition: TPN infusion management/frequency (saline flush- 5 minutes per day). (Testimony and Exhibit 5).
11. MassHealth authorized 30 minutes per episode, once per week, totaling 30 minutes per week; averaged to 5 minutes per day for Gastro-Intestinal (GI)/Nutrition: CVL/PICC/Broviac Care (dressing changes).
 - a. The appellant has his dressing changed twice a week. Each dressing change takes at a minimum 7 to 12 minutes to complete, while the same procedure at a doctor's office typically takes around 15 minutes. (Testimony).
12. MassHealth authorized 5 minutes per episode, 2 times per week, totaling 10 minutes per week; averaged to 2 minutes per day for Gastro-Intestinal (GI)/Nutrition: CVL/PICC/Broviac Care (cap changes).
 - a. No additional time was requested by the independent nurse, and this task typically requires 5 minutes to complete. (Testimony and Exhibit 5).
13. MassHealth authorized 20 minutes per day for Gastro-Intestinal (GI)/Nutrition: TPN infusion management/frequency (TPN and Lipids preparation and take down).
 - a. There is no dispute that there are no notations in the nursing notes regarding the need for more time. (Testimony).
14. MassHealth increased the time for Gastro-Intestinal (GI)/Nutrition: TPN infusion management/frequency (normal saline and flushing Heparin afterwards) to 20 minutes per episode, twice per week, totaling 40 minutes per week; averaged to 6 minutes per day.

(Testimony).

15. MassHealth authorized 53 minutes per day for CNS service hours. (Testimony)
16. The appellant does not require assistance with two or more ADLs. (Testimony and Exhibit 5).

Analysis and Conclusions of Law

MassHealth's regulation at 130 CMR 438.000 states the requirements for the payment of continuous skilled nursing (CSN) services and complex care assistant services provided by a CSN agency. All CSN agencies participating in MassHealth must comply with MassHealth regulations including, but not limited to, 130 CMR 438.000 and 130 CMR 450.000. See 130 CMR 438.401.

A member with medical complexity is an individual who is a MassHealth member and whose medical needs, as determined by the MassHealth agency or its designee, are such that they require a nurse visit of more than two continuous hours of nursing services to remain in the community. See 130 CMR 438.402. For complex care members, as defined in 130 CMR 438.402,² the MassHealth agency or its designee provides administrative care management that includes service coordination with CSN agencies as appropriate. The purpose of administrative care management is to ensure that a complex care member is provided with a coordinated LTSS³ package that meets the member's individual needs and to ensure that the MassHealth agency pays for nursing, complex care assistant services, and other community LTSS only if medically necessary in accordance with 130 CMR 450.204: Medical Necessity. The MassHealth member eligibility verification system identifies complex care members. See 130 CMR 438.414.

The complex-care member regulations are as follows:

(A) Care Management Activities.

- (1) Enrollment. The MassHealth agency or its designee automatically assigns a clinical manager to members who may require a nurse visit of more than two continuous hours of nursing and informs such members of the name, telephone number, and role

² There is no definition for "complex care member" in this regulation. However, it appears that the term "member with medical complexity" is being used as a replacement. See 130 CMR 438.402.

³ Long-term Services and Supports (LTSS) is defined as "certain MassHealth-covered services intended to enable a member to remain in the community. Such services include, but are not limited to, home health, durable medical equipment (DME), oxygen and respiratory equipment, personal care attendant (PCA), and other health-related services as determined by the MassHealth agency or its designee." See in 130 CMR 438.402.

of the assigned clinical manager.

(2) LTSS Needs Assessment. The clinical manager performs an in-person visit with the member to evaluate whether the member meets the criteria to be a complex care member as described at 130 CMR 438.402 and 438.410(B). If the member is determined to meet the criteria as a complex care member, the clinical manager will complete an LTSS needs assessment. The LTSS needs assessment will include input from the member; the member's caregiver, if applicable; LTSS providers; and other treating clinicians. The LTSS needs assessment will identify

- (a) skilled and unskilled care needs within a 24-hour period;
- (b) current medications the member is receiving;
- (c) DME currently available to the member;
- (d) services the member is currently receiving in the home and in the community; and
- (e) any other case management activities in which the member participates.

(3) Service Record. The clinical manager

(a) develops a service record, in consultation with the member, the member's primary natural caregiver, and where appropriate, the CSN agency and the member's physician or ordering non-physician practitioner, that

- 1. lists those LTSS services that are medically necessary, covered by MassHealth, and required by the member to remain safely in the community, and to be authorized by the clinical manager;
- 2. describes the scope and duration of each service;
- 3. lists other sources of payment (e.g., third-party liability, Medicare, Department of Developmental Services, adult foster care); and
- 4. informs the member of their right to a hearing, as described at 130 CMR 438.414.

(b) provides the member with copies of

- 1. the service record, one copy of which the member or the member's primary natural caregiver is requested to sign and return to the clinical manager. On the copy being returned, the member or the member's primary natural caregiver should indicate whether they accept or reject each service as offered and that they have been notified of the right to appeal and provided an appeal form; and
- 2. the LTSS needs assessment.

(c) provides information to the CSN agency about services authorized in the service record that are applicable to the CSN agency.

(4) Service Authorizations. The MassHealth agency or its designee will authorize those LTSS in the service record, including nursing and complex care assistant services, that require prior authorization and that are medically necessary, as provided in 130 CMR 438.412, and coordinate all nursing services and complex care assistant services; any

applicable home health agency services; and any subsequent changes with the CSN agency, home health agency, or independent nurse prior authorization, as applicable. The MassHealth agency or its designee may also authorize other medically necessary LTSS including, but not limited to, PCA services, therapy services, DME, oxygen and respiratory therapy equipment, and prosthetics and orthotics.

(5) Discharge Planning. The clinical manager may participate in member hospital discharge planning meetings as necessary to ensure that medically necessary LTSS necessary to discharge the member from the hospital to the community are authorized and to identify third party payers.

(6) Service Coordination. The clinical manager will work collaboratively with any other identified case managers assigned to the member.

(7) Clinical Manager Follow-up and Reassessment. The clinical manager will provide ongoing care management for members to

- (a) determine whether the member continues to meet the definition of a complex care member; and
- (b) reassess whether services in the service record are appropriate to meet the member's needs.

(B) CSN Agency Care Management Activities. The CSN agency must closely communicate and coordinate with the MassHealth agency's or its designee's clinical manager about the status of the member's nursing and complex care assistant needs, in addition, but not limited to

- (1) The amount of authorized CSN and complex care assistant hours the agency is able and unable to fill upon agency admission, and periodically with any significant changes in availability;
- (2) Any recent or current hospitalizations or emergency department visits, including providing copies of discharge documents, when known;
- (3) Any known changes to the member's nursing needs and services that may affect the member's CSN agency service needs;
- (4) Needed changes in the agency's CSN agency PA; and
- (5) Any incidents warranting an agency submitting to the MassHealth agency or its designee an incident or accident report. See 130 CMR 438.415(D)(2).

See id.

The MassHealth regulations setting forth the criteria for clinical eligibility for skilled nursing services are found at 130 CMR 414.408:

(A) Clinical Eligibility for Continuous Skilled Nursing Services. A member is clinically eligible for MassHealth coverage of CSN services when all of the following criteria are met:

- (1) there is a clearly identifiable, specific medical need for a nursing visit to provide

- nursing services, as described in 130 CMR 414.408(B), of more than two continuous hours;
- (2) the CSN services are medically necessary to treat an illness or injury in accordance with 130 CMR 414.409(C); and
 - (3) the nurse has obtained prior authorization in accordance with 130 CMR 414.413.

In this case, the appellant's clinical eligibility is in dispute. MassHealth contends that based on an in-person LTSS nursing assessment of the appellant, he no longer requires more than two continuous hours of CNS. As such, he is no longer clinically eligible for this program. See 130 CMR 414.408(A); 130 CMR 438.410(B)(1). The appellant's mother argues that MassHealth authorized an insufficient number of CSN service hours for the appellant.

In order to authorize CSN service hours, MassHealth uses a "time-for-task" tool to assign time for each skilled nursing intervention that the appellant requires, adding these together to arrive at the total number of skilled nursing hours per week. MassHealth suggests that this system ensures the approved time will be based solely on the medical needs of the members. To that end, during the hearing, the appellant's mother accepted MassHealth's determination relevant to the amount of time required to perform the following nursing interventions: Gastro-Intestinal (GI)/Nutrition: CLV/PICC/Broviac Care (ethanol lock- 5 minutes per day), (parenteral line assessment – 10 minutes per day) and TPN infusion management/frequency (saline flush- 5 minutes per day). See Exhibit 5, p. 135-136.

The appellant's mother contested MassHealth's determination relevant to the amount of time required to perform the following nursing interventions:

Gastro-Intestinal (GI)/Nutrition: CVL/PICC/Broviac Care (dressing changes – 30 minutes per episode, once per week, totaling 30 minutes per week; averaged to 5 minutes per day).

The appellant's mother stated that because of the appellant's age, he tends to sweat more and to keep the site sterile, the dressing must be changed twice per week at the same time as the cap changes. She added that each dressing change takes at a minimum 7 to 12 minutes to complete, while the same procedure at a doctor's office typically takes around 15 minutes. Here, MassHealth allowed 30 minutes per week for the dressing change which would allow enough time for the appellant's dressing to be changed at the frequency and duration that the appellant's mother's testimony suggested. As such, no more time is required for this task.

Gastro-Intestinal (GI)/Nutrition: CVL/PICC/Broviac Care (cap changes – 5 minutes per episode, 2 times per week, totaling 10 minutes per week; averaged to 2 minutes per day).

The appellant's mother stated that it takes approximately 10 minutes to safely complete the cap change and prevent infection. The MassHealth representative noted that the independent nurse

did not request additional time for this task in the documentation submitted to which the appellant's mother agreed. As such, there is no dispute that the record supports MassHealth's position regarding the time needed for this task. The appellant's mother did not present any evidence regarding the actual skilled nursing time needed other than to say that nurses have expressed feeling rushed to her. As such, there is no documentary evidence in support of the appellant's position.

Gastro-Intestinal (GI)/Nutrition: TPN infusion management/frequency (TPN and Lipids preparation and take down – 20 minutes per day).

The appellant's mother stated that this task takes an hour to complete. She said that it takes longer than 20 minutes to allow for the TPN to warm up and then to be administered. She added that the TPN take down alone takes 15 minutes. The MassHealth representative reiterated that there is no clinical documentation to support this contention to which the appellant's mother agreed. As such, there is no dispute that the record supports MassHealth's position regarding the time needed for this task. No documentary evidence to the contrary was presented by the appellant's mother.

Gastro-Intestinal (GI)/Nutrition: TPN infusion management/frequency (normal saline and flushing Heparin afterwards – 15 minutes per week; averaged to 3 minutes per day).

The appellant's mother testified that since the removal of the appellant's G-tube, his episodes of vomiting have increased. As such, she requested 20 minutes per week, twice per week; totaling 40 minutes per week. The MassHealth representative agreed to allow the increase in time as requested for 20 minutes per episode, twice per week, totaling 40 minutes per week; averaged to 6 minutes per day.

In sum, the appellant's total revised CSN service hours totaled 53 minutes per day which is less than two continuous hours of skilled nursing visits required for clinical eligibility in accordance with MassHealth regulations. See 130 CMR 414.408(A)(1); 130 CMR 438.410(B)(1). While I am sympathetic to the appellant's position, the evidence does not adequately demonstrate specific tasks or needs that would require more time than allowed by MassHealth. In fact, there is no dispute that the documentary evidence consisting of the independent nursing notes does not mention a need for allocation of more time. An appellant bears the burden of proof at fair hearings "to demonstrate the invalidity of the administrative determination." See Andrews v. Division of Medical Assistance, 68 Mass. App. Ct. 228, 231 (2007); see also Craven v. State Ethics Comm'n, 390 Mass. 191, 200 (1983)("[p]roof by a preponderance of the evidence is the standard generally applicable to administrative proceedings"). Based on the evidence, testimony, and medical records in this case, the appellant did not meet his burden. As such, he is no longer clinically eligible for MassHealth's CCM. Accordingly, MassHealth correctly terminated the appellant's CSN services because he no longer requires a nursing visit of more than two continuous hours.

In addition, MassHealth determined that based on a PCA reevaluation, the appellant does not have any identifiable specific physical care needs that require assistance with two or more of the ADLs. See Exhibit 5, pp. 139-151. As such, he does not qualify for PCA services. The appellant's mother stated that the appellant is incontinent with his bladder during the night. As such he needs his diaper changed during the night and his bed sheets changed and washed two to three times. Pursuant to 130 CMR 422.403(C), MassHealth covers PCA services to eligible MassHealth members who can be appropriately cared for in the home when among other conditions require physical assistance with two or more of the ADLs as defined in 130 CMR 422.410(A).⁴ Even assuming without deciding that the appellant requires assistance during the night with diaper change and with changing and washing his bed sheets, these tasks would constitute one ADL and one IADL, respectively. Therefore, they do not amount to two or more ADLs as required to qualify for the PCA program. See 130 CMR 422.410(B)(physically assisting with household management tasks that are incidental to the care of the member, including laundry are considered IADLs). Accordingly, MassHealth correctly determined that the appellant does not qualify for PCA services.

For the foregoing reasons, this appeal is DENIED.

Order for MassHealth

Remove aid pending protection.

⁴ ADLs defined at 130 CMR 422.410(A) include:

- (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.

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.

Sharon Dehmand, Esq.
Hearing Officer
Board of Hearings

MassHealth Representative: Linda Phillips, For Health - Appeals, P.O. Box 2597, Worcester, MA 01613