

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2514309
Decision Date:	11/20/2025	Hearing Date:	11/05/2025
Hearing Officer:	Alexandra Shube		

Appearance for Appellant:

Via telephone:



Appearance for MassHealth:

Via telephone:

Robin Brown, OTR/L

Candice Smallwood, OLTSS, Program
Coordinator for PCM Program



*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:	PCA – EVV
Decision Date:	11/20/2025	Hearing Date:	11/05/2025
MassHealth’s Rep.:	Robin Brown; Candice Smallwood	Appellant’s Rep.:	Pro se
Hearing Location:	Quincy Harbor South, 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 September 26, 2025, MassHealth informed the appellant that it terminated her personal care attendant (PCA) services because she did not use the Electronic Visit Verification (EVV) system when submitting time sheets for her PCAs (Exhibit 1). The appellant filed this appeal in a timely manner on October 1, 2025 (see 130 CMR 610.015(B) and Exhibit 2). Termination of assistance is valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth terminated the appellant’s PCA services for failure to use the EVV system to submit time sheets for her PCA.

Issue

The appeal issue is whether MassHealth was correct in terminating the appellant’s PCA services for failure to use the EVV system to submit time sheets for her PCA.

Summary of Evidence

All parties appeared at hearing via telephone. MassHealth was represented at hearing by a registered, licensed occupational therapist and clinical appeals reviewer (hereinafter, the clinical appeals reviewer), as well as the program coordinator for the Office of Long-Term Services and Supports (OLTSS) Personal Care Management (PCM) program (hereinafter, the program coordinator). The appellant appeared pro se.

The clinical appeals reviewer testified that the appellant's PCA services of 16.25 hours per week are protected by aid pending during the appeals process. She explained that on September 26, 2025, MassHealth was notified by OLTSS to terminate the appellant's PCA services because of the appellant's failure to comply with the EVV system. In a letter to the appellant dated September 23, 2025, OLTSS stated the following:

MassHealth has determined that you are still in violation of program requirements due to your continued failure to use the Electronic Visit Verification (EVV) system for timesheet submission. Massachusetts regulation 130 CMR 422.420(A)(3) requires you to use the EVV system when you are submitting timesheets for your PCAs. As of the date of this letter, our records show that you have not used the EVV system for more than four pay periods.

Tempus Fiscal Intermediary ("FI") mailed you a letter dated **2025-06-09** warning you that if you did not start using the EVV system, you will be referred to MassHealth for termination of your PCA services. [REDACTED] your PCM agency, and MassHealth staff have all contacted you and offered to provide training and support but you have not yet submitted timesheets using the EVV system.

MassHealth is therefore terminating your PCA services, effective 30 days from the date of this letter, as authorized by Massachusetts regulation 130 CMR 422.420(B)(1). You must not schedule a PCA to work, and MassHealth will not pay for PCA services, after **2025-10-23**.

The program coordinator explained that pursuant to 130 CMR 422.420(A) and (B), the appellant must comply with all program requirements or risk termination. Using the EVV system is a requirement of the program, deemed so by federal law. If a consumer is unable to use the EVV, she can appoint a surrogate or administrative proxy. The only two exemptions to using the EVV system are the live-in caregiver exemption (where the PCA and consumer live in the same home permanently or for 120 hours per week or more) and the safety exemption (where someone cannot use the EVV because of a serious safety issue, such as being the victim of domestic violence, stalking, or harassment). The appellant had not applied for either exemption as of hearing. The program coordinator explained that to use the EVV system, a consumer needs access

to the internet through either a smart device, cell phone, or computer. The appellant could request a voucher for a smart device. The EVV systems requires the PCA to clock in and out for their daily shifts on their own device. Then the consumer, surrogate, or administrative proxy would sign off on those time sheets. The surrogate or administrative proxy cannot be the same person as the PCA.

The appellant objected to this requirement. She explained that she does not know how to use any devices and, furthermore, due to her rheumatoid arthritis, her hands are deformed and incapable of operating any devices. She does not have internet in her apartment and does not own a smart phone or computer. Even if she got a voucher for a phone, she does not want to pay for internet service and the voucher would not cover that. She is of sound mind and does not need a surrogate. She does not have anyone in her life who could be an administrative proxy. Her adult children are not in a position to help her and the closest person is her main PCA who is also her health care proxy. She stated she would look into the live-in exemption, but her PCA does not currently live with her.

The program coordinator responded that the appellant should speak to her PCM agency about completing the live-in exemption application. The PCA program is a consumer driven program, so if she wanted an administrative proxy, she would have to find her own. The administrative proxy helps with administrative duties such as signing off on EVV sheets. She can also contact the PCM agency if she chooses to appoint an administrative proxy or surrogate.

Findings of Fact

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

1. The appellant, a MassHealth member over the age of [REDACTED] was receiving 16.25 hours per week of PCA services (Testimony and Exhibit 4).
2. On September 23, 2025, OLTSS informed the appellant that she was still in violation of program requirements due to her continued failure to use the EVV system for time sheet submission for her PCAs and her PCA services would be terminated 30 days from the date of the letter (Testimony and Exhibit 5).
3. On September 26, 2025, MassHealth informed the appellant that it was terminating her PCA services for failure to use the EVV system when submitting time sheets for her PCAs. This is the notice under appeal. (Testimony and Exhibit 1).
4. On October 1, 2025, the appellant timely appealed the notice (Exhibit 2).

5. The appellant's PCA services (16.25 hours per week) are protected by aid pending during the appeal process (Testimony).
6. The appellant confirmed that she was not using the EVV system and was looking for an exemption (Testimony).
7. The appellant stated she does not want a surrogate and does not have anyone who can be her administrative proxy (Testimony).
8. There are two exemptions (live-in and safety) to the requirement of the EVV system, but there is no evidence that any of the exemptions are applicable to the appellant's situation. (Testimony).

Analysis and Conclusions of Law

A member's responsibilities in the PCA program are set forth in 130 CMR 422.420. These requirements include completing and signing the appropriate forms in the form and format required by MassHealth, including through the use of EVV; scheduling PCAs and coordinating with PCAs to use EVV as required by MassHealth; and cooperating with MassHealth, the PCM agency, and the Fiscal Intermediary for the implementation and use of EVV. (130 CMR 422.420(A)). MassHealth reserves the right to terminate PCA services if a member fails to comply with any of the requirements listed in 130 CMR 422.420(A). (130 CMR 422.420(B)).

Specifically, 130 CMR 422.420(A)(3) states that as a condition of receiving MassHealth PCA services, the member must

complete and sign activity forms and submit them to the Fiscal Intermediary in the form and format as required by the MassHealth agency, including through the use of EVV, and in accordance with the instructions provided and time frame specified by the Fiscal Intermediary or the MassHealth agency.

If a member is unable to use the EVV system, she can opt to appoint a surrogate or an administrative proxy. There are only two exemptions to using the EVV system: (1) live-in caregiver exception exemption (where the PCA and consumer live in the same household permanently or for 120 hours per week or more) and (2) the safety exemption (where use of the EVV system would cause a serious safety issue, such as being the victim of domestic violence, stalking, or harassment).¹ For appointing a surrogate or administrative proxy or applying for one of the exemptions, a consumer should go through their PCM agency.

¹ See <https://www.mass.gov/info-details/electronic-visit-verification-evv>, last visited on November 19, 2025.

Here, MassHealth terminated the appellant's PCA services for failure to comply with using the EVV system for her PCA's time sheet submissions as required by 130 CMR 422.420(A)(3). The appellant did not dispute this failure but was looking for an exemption because she does not have a smart device, computer, or internet and her hands don't function well enough to use a smart device due to her rheumatoid arthritis. She felt she did not need a surrogate because she is of sound mind and she had no one in her life who could be her administrative proxy.

It is undisputed that the appellant has not complied with the EVV system for time sheet submissions. Unfortunately, at this time, there is no evidence that either of the exemptions are applicable to the appellant's situation. For these reasons, the MassHealth determination to terminate PCA services due to failure to comply with using the EVV system as required by 130 CMR 422.420(A) is correct and the appeal is denied.

Order for MassHealth

None, other than remove aid pending.

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.

Alexandra Shube
Hearing Officer
Board of Hearings

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

Office of Long-Term Services and Supports