

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2515334
Decision Date:	02/17/2026	Hearing Date:	11/24/2025
Hearing Officer:	Mariah Burns	Record Open to:	12/19/2025

Appearance for Appellant:



Appearance for MassHealth:

Michael Diggins, PCA Special Projects
Manager, MassHealth Office of Long-Term
Services and Supports



*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:	Approved	Issue:	Prior Authorization; Personal Care Attendant Services; Termination
Decision Date:	02/17/2026	Hearing Date:	11/24/2025
MassHealth's Rep.:	Michael Diggins	Appellant's Rep.:	[REDACTED]
Hearing Location:	Telephone (Quincy)	Aid Pending:	No ¹

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 October 1, 2025, MassHealth terminated the appellant's participation in the MassHealth Personal Care Attendant (PCA) program, effective 30 days from the date of the notice, for violating program billing rules. *See* 130 CMR 422.420(B)(1) and Exhibit 1. The appellant filed this appeal in a timely manner on October 19, 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 personal care attendant services for violating the program billing rules.

¹ There is discrepancy over whether Aid Pending was applied in this case. BOH records do not indicate that Aid Pending was applied, but the submission from OLTSS indicates that it was. *See* Exhibit 5 at 19. The appellant requested Aid Pending on his fair hearing request, which was submitted prior to the termination date of the appellant's PCA services. Exhibit 2. Where the request satisfies the requirements of 130 CMR 610.036, Aid Pending should have been applied in this matter.

Issue

The appeal issue is whether MassHealth correctly determined that the appellant violated PCA program billing rules in termination is participation in the program.

Summary of Evidence

The appellant is an adult over the age of 65 who is a current MassHealth Standard member and receives personal care attendant (PCA) services through MassHealth's Community Case Management Program. He was represented at the hearing by his brother, his PCA program surrogate with whom the appellant resides. MassHealth was represented at the hearing by a worker from the MassHealth Office of Long-Term Supports and Services, which manages the PCA program. The following is a summary of the testimony and evidence provided during the hearing and record open period.

The appellant was approved for 150 hours and 15 minutes of weekly hours for continuous skilled nursing and PCA services, 84 hours of which were permitted to be used for PCA services, with dates of service from June 29, 2025, through June 27, 2026. On October 1, 2025, MassHealth sent a Notice of Sanction and Termination of the appellant's PCA services, stating that the appellant billed for PCA services when he was admitted to an inpatient facility on [REDACTED]. The notice also stated that this was the appellant's "second violation regarding the submission of timesheets for PCA services while you were in the hospital." Exhibit 1. The termination went into effect "30 days from the date of this notice..." *Id.*

The MassHealth representative reported that MassHealth regulations prohibit a PCA program participant from billing for PCA services while admitted to an inpatient facility, such as a nursing home or the hospital. A member is issued a written warning for the first violation of this rule and is typically terminated from the program after a second violation. In this case, MassHealth records indicate that the appellant violated this rule on two occasions: on [REDACTED] and [REDACTED].

With respect to the October 8, 2024, alleged violation, MassHealth provided documents that show that the appellant was admitted to a skilled nursing facility on [REDACTED], at 7:01 AM and was discharged for [REDACTED]. Members are permitted to bill for PCA services on admission and discharge dates without issue, but not for full days during which a member is admitted to a facility. MassHealth provided three timesheets signed by the appellant's surrogate for dates [REDACTED] through [REDACTED] – two were for a PCA herein referred to as [REDACTED] and the third for a PCA herein referred to as [REDACTED]. [REDACTED] timesheets did not reflect a billing request for [REDACTED]. However, they did request time for [REDACTED] from 8:00 AM to 4:15 PM on one timesheet, while the second reflected a time request of 12:45 PM to 8:00 PM on [REDACTED]. See Exhibit 5 at 6-7. The timesheet for [REDACTED] requested payment for 12 hours from 8:00 AM to 8:00 PM

on both [REDACTED] [REDACTED] Exhibit 5 at 8. On April 1, 2025, MassHealth sent the appellant a written warning, reporting “you scheduled your PCA to provide PCA services while admitted to an acute hospital, nursing facility, or other inpatient facility [on] [REDACTED].” Exhibit 5 at 10. The warning stated that continued violation of the PCA program billing rules could result in termination of services. *Id.* at 11.

The appellant’s surrogate asserted that the appellant was discharged from the nursing facility in the middle of the day on [REDACTED]. The surrogate further stated that he mistakenly requested the wrong time period for that timesheet, which he argued he rectified with the payroll department. He stated that the second timesheet for [REDACTED] provided by MassHealth reflects this adjustment and asserted that he did the same thing for [REDACTED]. The surrogate writes: “I put it all in writing to payroll, well documented.” Exhibit 6 at 2. He did not submit this documentation into the hearing record.

With respect to the [REDACTED], alleged violation, MassHealth reported that the appellant was admitted to the hospital from [REDACTED], at 6:30 AM until his discharge on [REDACTED] at 1:00 PM. MassHealth submitted four timesheets that cover this period, each for different PCAs, herein known as [REDACTED] and [REDACTED]. Exhibit 5 at 12-15. Finally, MassHealth submitted timesheet line items that appear to be MassHealth work product, one for PCA [REDACTED] and another for a fifth PCA, [REDACTED] for whom no timesheet was submitted into the hearing record. Exhibit 5 at 16-17. The MassHealth representative did not explain the purpose or significance of those two documents. These timesheet line items appear to show that [REDACTED] was approved for 8.5 hours of work on [REDACTED] [REDACTED] and [REDACTED] was approved for 10 hours of work on that same date. Exhibit 5 at 16, 17. The timesheets submitted do not reflect a request for payment for the five PCAs on [REDACTED]. The appellant’s surrogate denied submitting a paystub billing for the time that the appellant was in the hospital.

The hearing officer kept the administrative record open because MassHealth did not submit satisfactory evidence at the hearing to demonstrate that the appellant was both admitted to inpatient facilities on the asserted dates and that PCA services were also requested for those dates. MassHealth was given until December 1, 2025, to provide the timesheets submitted by the appellant for the dates in dispute and an explanation of how MassHealth was aware of the dates and times of the appellant’s inpatient admissions and discharges. MassHealth provided the documents referenced above during the record open period. The appellant was given until January 2, 2026, to review and respond to those documents, which his surrogate did, in writing, which has been introduced into evidence. *See* Exhibit 6.

Findings of Fact

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

1. The appellant is an adult over the age of 65 who is a current MassHealth Standard member and receives personal care attendant (PCA) services through MassHealth's Community Case Management Program. Testimony, Exhibit 4, Exhibit 5 at 19. Prior to the notice at issue, the appellant had an open prior authorization request for PCA services with dates of service from June 29, 2025, through June 27, 2026. Exhibit 5 at 23.
2. The appellant's brother is his surrogate who manages the appellant's PCA program. Testimony.
3. The appellant was admitted to the hospital from [REDACTED], at 6:30 AM until his discharge on [REDACTED] at 1:00 PM. Testimony, Exhibit 5 at 2, Exhibit 6.
4. Introduced into evidence were four timesheets, each from different PCAs, including [REDACTED] but not [REDACTED] for the weeks of May 25, 2025, through June 7, 2025. Exhibit 5 at 12-15. None of those timesheets billed for time on [REDACTED]. *Id.* MassHealth submitted documents that appear to show that two PCAs were paid for services provided on [REDACTED], but neither the documents nor the testimony indicated whether these documents are timesheets submitted by the appellant. Exhibit 5 at 4, 16, 17.
5. On October 1, 2025, MassHealth terminated the appellant's PCA services, asserting that the appellant billed for PCA services on [REDACTED], while he was admitted to the hospital. Exhibit 1.
6. The appellant filed a timely request for fair hearing on October 19, 2025. Exhibit 2.
7. The appellant's surrogate denies submitting a timesheet for PCA services for [REDACTED]. Testimony, Exhibit 6.

Analysis and Conclusions of Law

Certain MassHealth Standard and CommonHealth members are eligible to receive coverage of personal care attendant (PCA) services if they meet the clinical criteria for the program. PCA services provide members physical assistance with Activities of Daily Living (ADLs) and Instrumental Activities of Daily Living (IADLs). 130 CMR 422.402. MassHealth will authorize coverage of PCA services, subject to prior authorization, when:

- (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.²

(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.

130 CMR 422.403 (C). MassHealth does not cover, as part of the PCA program, certain services including “time when a PCA is not providing assistance with ADLs or IADLs...[and] PCA services provided to a member while the member is a resident of a nursing facility or other inpatient facility...” 130 CMR 422.412(D) and (E).

Members are responsible for completing and signing all activity forms and for ensuring “that information submitted on the activity forms for each pay period correctly identifies who provided the PCA services, and the correct hours and dates that the PCA services were provided.” 130 CMR 422.420(A)(3) and (4). Members who are deemed unable to manage their own PCA program must appoint a surrogate to manage the program and act on the member’s behalf. 130 CMR 422.422(A) and (B). If a member is suspected of overutilizing PCA hours, MassHealth, or its agent, will contact the member or surrogate and work with them to ensure they properly bill going forward. 130 CMR 422.416.(E)(3). Members and surrogates are required to comply with “applicable state and federal labor laws, including, but not limited to, federal and state child labor laws...[and] all applicable MassHealth regulations” while participating in the PCA program. 130 CMR 422.420(A)(19) and (20). 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)(1).

An appellant bears the burden of proof at fair hearings “to demonstrate the invalidity of the administrative determination.” *Andrews v. Division of Medical Assistance*, 68 Mass. App. Ct. 228, 231 (2006). The acting entity must “submit to the hearing officer at or before the hearing all evidence on which any action at issue is based.” 130 CMR 610.062(A). The fair hearing decision, established by a preponderance of evidence, is based upon “evidence, testimony, materials, and legal rules, presented at hearing, including the MassHealth agency’s interpretation of its rules, policies and regulations.” 130 CMR 610.085(A).

In this case, MassHealth contends that the appellant (or his surrogate) improperly submitted a timesheet requesting compensation for PCA services while the appellant was admitted to the hospital on [REDACTED]. Although the evidence that MassHealth submitted seems to suggest

² ADLs include assistance with mobility, medications, bathing or grooming, dressing or undressing, passive range of motion exercises, and toileting, while IADLs include household services (such as laundry, shopping, and housekeeping), meal preparation and clean-up, transportation, and other special needs codified in the regulations. 130 CMR 422.410(A) and (B).

that two of the appellant's PCAs were approved for payment for that day, the time sheets in the record signed by the appellant's surrogate do not request payment for any PCAs on [REDACTED]. No timesheet for [REDACTED] was offered as evidence, and MassHealth is required to provide any information upon which an action is based at the hearing.³ If MassHealth asserts that [REDACTED] was improperly paid for a date on which the appellant was admitted to the hospital, MassHealth is obligated, under the Fair Hearing Rules, to provide the timesheet where the appellant requests payment for that date. 130 CMR 610.062(A). Furthermore, the timesheet submitted for [REDACTED] for the weeks of May 25, 2025, through June 7, 2025, does not state that [REDACTED] worked on [REDACTED] 2025, and does not request payment for that date.

Where the PCA program member responsibilities only require a member or surrogate to ensure that the information on the submitted activity form is accurate, I find that there is no evidence in the record that the appellant or his surrogate failed to comply with 130 CMR 422.420(A) with respect to the [REDACTED] alleged violation.⁴ I conclude that, though MassHealth may have erroneously paid the appellant's PCAs for those dates, that is not due to any error on the appellant's part, based on the evidence before me. Furthermore, 130 CMR 422.420(A) does not require a member or surrogate to facilitate the return of any erroneous payments, and it would therefore be improper for MassHealth to terminate the appellant's PCA services on those grounds. Thus, I find that MassHealth issued the October 1, 2025, notice terminating the appellant's PCA services in error.

For the foregoing reasons, the appeal is hereby APPROVED.

Order for MassHealth

Reinstate the appellant's personal care attendant (PCA) services. If Aid Pending was not applied, those services should be reinstated retroactive to the termination date of 30 days from the October 1, 2025, termination notice. If Aid Pending was applied, it may be removed.

³ The significance of the document submitted reflecting payment for [REDACTED] was not clearly testified to at the hearing or during the record open period, and therefore I am unable to find that it is a timesheet submitted by the appellant requesting payment for services provided on May 31, 2025. See Exhibit 5 at 4, 17.

⁴ Because I find that the precipitating violation was not valid cause to terminate the appellant's PCA benefits, I make no finding regarding the October 8, 2024, alleged violation. This means that MassHealth may, at its discretion, send notice terminating the appellant's PCA services in the event of another alleged reporting violation, but the appellant will have the ability to challenge the validity of the October 8, 2024, alleged violation at a future appeal of such a notice.

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.

Mariah Burns
Hearing Officer
Board of Hearings

cc: Respondent Representative: Sherri Hannigan, MassHealth - OLTSS, One Ashburton Place, 10th Floor, Boston, MA 02108