Office of Medicaid
BOARD OF HEARINGS

Appellant Name and Address:

[redacted]

Appeal Decision:	Approved in part; Denied in part; Dismissed in part	**Appeal Number:**	2516369
Decision Date:	2/11/2026	**Hearing Date:**	12/09/2025
Hearing Officer:	Christopher Jones	**Record Open to:**	12/19/2025

Appearances for Appellant:
[redacted] Mother

Appearances for MassHealth:
Optum:
Kelly Rayen, RN; Mary-Jo Elliot, RN
OLTSS:
Susan Ciccariello; Allison Langlois

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 in part; Denied in part; Dismissed in part	**Issue:**	Prior Authorization; Personal Care Attendant (PCA) Services
Decision Date:	2/11/2026	**Hearing Date:**	12/09/2025
MassHealth's Rep.:	Kelly Rayen, RN; Mary-Jo Elliot, RN; Susan Ciccariello; Allison Langlois	**Appellant's Rep.:**	Mother; [redacted]
Hearing Location:	Virtual - Teams	**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 October 29, 2025, MassHealth modified the appellant's request for personal care attendant services, allowing less time than was requested. (Exhibit 1; Exhibit 2; 130 CMR 422.410, .412.) The appellant filed this timely appeal on November 6, 2025, and her benefits are protected pending the outcome of this appeal. (Exhibit 3; 130 CMR 610.015(B); 610.036.) Limitations of assistance are valid grounds for appeal. (130 CMR 610.032.)

Following the hearing, the record was held open until December 19, 2025, for the appellant to submit additional medical evidence and for MassHealth to respond.

Action Taken by MassHealth

MassHealth allowed fewer hours for personal care attendant services than were requested.

Issue

The appeal issue is whether MassHealth is correct, pursuant to 130 CMR 422.000, to modify requested personal care attendant time for the appellant.

Summary of Evidence

On or around October 16, 2025, the appellant's personal care management (PCM) agency, the [redacted] submitted a reevaluation for personal care attendant (PCA) services. This request sought 140 hours and 30 minutes per week of PCA services (8,426 minutes per week). MassHealth made 18 modifications to this request and authorized 68 hours and 15 minutes per week (4,089 minutes per week). The prior authorization period runs from November 15, 2025, to November 14, 2026. (Exhibit 5, pp. 2-3.) The appellant's PCA hours are protected at 98 hours per week, pending the outcome of this appeal.

The facts and arguments in this case are largely identical to those underlying Appeal No. 2416274 (Mar. 7, 2025). In the appellant's prior appeal, "MassHealth modified the appellant's request, noting that the primary reason for the decision was that much of the request represented a duplication of services. By notice dated October 15, 2024, MassHealth modified the requested time to the following: 68 hours of day/evening PCA assistance per week … ." (Appeal No. 2416274, p. 4.)

The appellant is a woman in her early [redacted] who lives with her parents. Her primary diagnoses include [redacted] which is [redacted] (Exhibit 5, p. 8.) Other conditions include a ventral peritoneal shunt, seizures, migraines, multiple thoracic vertebral fractures, G-tube fed, history of foot fracture, chronic pain, localized edema, neuromuscular dysfunction of the bladder, and tremors. The appellant is non-ambulatory and uses a manual tilt-in-space wheelchair, a power wheelchair with power tilt and recline and power-elevated leg rests, a semi-electric hospital bed with a power pressure-reducing mattress. The appellant participates in MassHealth's Moving Forward Plan (MFP) – Community Living Waiver program. (See Exhibit 5, p. 80; Appeal No. 2416274, p. 3.)

The appellant has been referred to MassHealth's Community Case Management (CCM) program, but the appellant has chosen to coordinate services for herself rather than having MassHealth provide care coordination. MassHealth did not identify any legal requirement that a member must enroll with CCM if they are referred to that program; nor did MassHealth offer any testimony regarding how long-term services and supports should be holistically reviewed outside of the CCM program.

At the present hearing, MassHealth's representatives testified the appellant was hospitalized 4 times in 2025 for approximately 3 months across all hospitalizations. The reasons for hospitalization included pneumatosis, total parenteral nutrition (TPN), a UTI, and clogged ports. (Exhibit 5, p. 9.) MassHealth argues generally that the appellant is seeking PCA care that is duplicative of other services that have been authorized and that the requested time for each PCA task is excessive.

MassHealth's representatives noted that the appellant's plan of care indicates that she is approved for "101-168 hours per week" of continuous skilled nursing (CSN) services and 78 hours per week of home health aide (HHA) assistance. (Exhibit 5, pp. 70, 80.) The appellant was also approved for 15 physical therapy visits per month. (Exhibit 5, p. 81.) MassHealth specifically noted that the care plan indicated the appellant was "NPO to allow her gut to rest and her pneumatosis to improve. She continues on Peripheral nutrition with intralipids. She received 960-1000mg of free water daily to improve her hydration which is infused via g tube at 83 ml/hr when she is not receiving the PN/Lipids." (Exhibit 5, p. 77.) MassHealth's representatives highlighted that this note indicated the appellant's mother "continued to have difficulty with blood return" using the appellant's port-a-cath, but the "RN on the floor was able to easily get blood return." (Exhibit 5, p. 77.) MassHealth also highlighted that x-rays of the appellant's lumbar and thoracic spine indicated compression deformities had progressed since her prior study, and that in late summer 2025, the appellant's compression boots were found fully inflated on both lower extremities when a nurse arrived. The nurse noted bruising to bilateral inner feet/ankles. (Exhibit 5, p. 77.)

The appellant's parents are the appellant's PCAs, though her father also works outside of the home. The appellant's representatives argued that the appellant requires 24-hour care from at least 2 people in order to ensure a sufficient amount of observation and care. The appellant's mother testified that the appellant has multiple conditions that could kill her at any moment. The appellant's tumor can quickly cause a neurological event that would result in death, and the appellant needs to be carefully monitored for neurological symptoms. If certain neurological symptoms appear the appellant needs to get to the hospital immediately. The appellant's pneumatosis is the buildup of gas due to a lack of gastro-intestinal motility. The appellant's mother testified that they measure the appellant's abdomen 3 times a day to ensure that gas is not building up that could rupture her colon. Furthermore, the appellant has fractures throughout her spine that require at least 2 people for any repositioning or transfers.

The appellant's representatives explained that HHAs are scheduled for 11 hours overnight, so that the appellant's family is able to sleep. The appellant's parents provide daytime PCA assistance with activities of daily living (ADLs) and instrumental ADLs (IADLs). The appellant schedules nurses for as much coverage as possible, but the appellant's representatives argued that scheduling 24-hour nursing is practically impossible, especially for overnight shifts. Furthermore, the appellant's parents are expected to cover skilled care to cover any gaps in nursing coverage. Neither of the appellant's parents are nurses, which means that they cannot be paid for nursing care.

MassHealth's representatives testified that the prior authorization request was reviewed by a PCA services manager, the prior authorization utilization management director, and representatives from the office of long-term services and supports to assess modifications related to duplication of services from skilled nursing and HHAs, noncovered PCA services, and failure to utilize other sources of healthcare. MassHealth argued generally that there are duplicative services because the HHAs are approved for 11 hours per day. MassHealth was aware that the appellant uses their HHAs at night, but MassHealth approved 14 nighttime PCA hours per week. MassHealth defines nighttime PCA hours to be the 6 hours between midnight and 6:00 AM, which means there are 42 nighttime hours per week. MassHealth's representative argued 36 HHA hours per week were for non-nighttime coverage, which would be duplicative.

The parties were asked if this did not indicate an excessive number of HHA hours, instead of PCA hours. The appellant argued that there is no duplication of services because the skilled nursing services are provided through private insurance, and the HHA hours are provided through the MFP waiver in conjunction with the Massachusetts Rehabilitation Commission (MRC). The appellant noted that the HHA hours may be used for monitoring and supervision, which implies that the services are different from the PCA program. MassHealth did not offer any specific testimony regarding how the two services should be coordinated, rather their testimony focused on how the time requested was excessive for the task.

The appellant conceded that the PCM agency requested excessive PCA hours. The appellant is requesting time be approved to allow 13 hours per day of PCA services, so that there is around the clock hands-on assistance for the appellant in addition to nursing services. The appellant noted that most of the time they are seeking was previously adjudicated in Appeal No. 2416274 (Mar. 7, 2025). The appellant would have enough PCA hours if MassHealth just approved the time authorized during the last appeal.[1]

MassHealth's representatives confirmed that the appellant's parents would be expected to provide uncompensated nursing services during gaps in nursing coverage. MassHealth conceded that there are circumstances whereby a PCA and an HHA can both work in conjunction with each other without duplicating services. However, MassHealth's representatives argued this should never happen in the appellant's case because the 2nd pair of hands should always be a nurse. The appellant's mother testified that overnight nursing is the most challenging staffing to schedule, even if coverage for it is approved. The appellant mother is the 2nd person providing care with an HHA if no nurse is available, and the appellant argues she should be compensated as a PCA in these circumstances.

These general arguments were also raised by both sides in Appeal No. 2416274:

[1] The appellant's hours are currently protected in Aid Pending at 98 hours per week based upon the last fair hearing decision. The appellant's representatives testified that the appellant does not utilize that many PCA hours because too many were authorized.

> A MassHealth nurse consultant repeated the points set forth above, citing 130 CMR 450.204(A)(2), 517.008(B)(2), and 503.007(B). The appellant's attorney argued that the appellant's PCA and HHA services do not overlap, as the HHA services are only utilized at night while the appellant's parents are sleeping. Because the HHA services are provided through a waiver program, the services can include assistance with ADLs, as well as cueing, prompting, and supervision. The PCA services are utilized only during the day.

(Appeal No. 2416274, p. 4.)

MassHealth argued that Appeal No. 2416274 should not preclude the agency from modifying time during this prior authorization review. MassHealth's representatives argued that much of the time approved in that hearing was excessive and not clearly documented. MassHealth's representatives were asked if any material facts had changed to warrant re-litigating the time approved in the previous appeal. MassHealth's LTSS representative confirmed that nothing had changed since the fair hearing decision, and there was no reason to displace the prior finding. MassHealth's nursing representatives argued generally that some tasks are different now due to the appellant's significant hospitalizations the hearing decision. Furthermore, the nighttime hours were not adjudicated during the prior appeal, because MassHealth has simply approved them as they did during this prior authorization review.

The specific categories of assistance that were modified during this prior authorization review are:

Transfers

The appellant requested 25 minutes, 6 times per day (1,050 minutes per week) for assistance with transferring. (Exhibit 5, p. 12.) MassHealth authorized 15 minutes per transfer (630 minutes per week). (Exhibit 5, p. 6.) MassHealth's representative testified that the appellant's nurse would be primarily responsible for transferring, and in a transfer taking this long there would be down time during which the PCA was not actively, physically assisting with the transfer. Even if the appellant required a 25-minute transfer, the amount of time the PCA was physically involved would be less than that.

The appellant's representatives argued that the appellant requires 2 people to physically have their hands on her throughout the entirety of the transferring process. The appellant submitted a letter from the appellant's cancer care team, in which they wrote that the appellant "requires complete PCA support with neurologically mediated tasks, some of which require a PCA and a nurse to work together, including: … Assistance with transfers and all mobility activities … ." (Exhibit 6, p. 13.)

MassHealth's nursing representatives testified that 25 minutes is a long time to transfer someone, and it is unclear why it would take that long to perform the transfer. The transfer should involve putting the appellant into a lift sling that is made for the appellant, connecting it to the lift, and then transferring the appellant to her wheelchair. MassHealth could not understand how this takes

25 minutes. The appellant's attorney noted that this exact argument was raised in Appeal No. 2416274, in which the hearing officer found the following facts:

> The appellant requested 25 minutes, six times per day, seven days per week (totaling 1,050 minutes) for PCA assistance with transfers. MassHealth modified the request to 15 minutes, six times per day, seven days per week (totaling 630 minutes).
>
> …
>
> • The appellant requires the assistance of two people to transfer via Hoyer lift.
>
> • The transfer process is a painstaking process where the appellant is moved in 10-degree increments due to her pain, nausea, fragility, and other issues.
>
> • The transfer process [is] a lengthy ordeal that takes, on average, 25 minutes per episode.

(Appeal No. 2416274, p. 15.)

The hearing officer concluded: "The appellant's mother credibly described the transfer process as a lengthy ordeal that takes on average, 25 minutes per episode. This portion of the appeal is approved." (Appeal No. 2416274, p. 23.)

MassHealth's representatives were asked if anything had changed that would warrant putting aside these findings. MassHealth's LTSS representative responded there was no factual reason to displace the prior finding. MassHealth's nursing representatives remained dubious of the appropriateness of 25 minutes for a 2-person transfer. They testified that a transfer should be easy on the member, which would mean being as quick as is safely possible. Furthermore, if there are pauses for a nurse to evaluate the member, that would be waiting time that would not be compensated. The appellant pointed out that the facts reviewed during the last appeal was that the PCA must keep their hands on the appellant throughout the transfer.

Passive Range of Motion (PROM)

The appellant requested 10 minutes, twice per day for each lower extremity (280 minutes per week); MassHealth authorized 1 instance of PROM per leg per day (140 minutes per week). (Exhibit 5, pp. 6, 14.)

MassHealth's representative noted that the Form CMS-485 documented that a nurse is to perform PROM exercises, and there is no documentation in the Form CMS-485 that the nurse requires any assistance to perform that task. MassHealth allowed one instance of PROM to allow for stretching, not PROM. (Exhibit 5, p. 75.) The appellant submitted clinical documentation that 2 people are required to perform PROM. (Exhibit 6, p. 13.) The appellant's mother also testified that they actually perform PROM every 2 hours to prevent blood clots. The appellant has quadriparesis,

which means she has a lack of control, not just an inability to move her limbs. The second person is needed to prevent unintended body movements while the intended PROM occurs.

In Appeal No. 2416274, the hearing officer found the following facts:

> The appellant requested 10 minutes, two times per day, seven days per week to each extremity (totaling 560 minutes) for PCA assistance with passive range of motion exercises.
>
> • MassHealth denied this request because the documentation submitted indicates that the requested services do not meet the professionally recognized standards of healthcare.
>
> • Per the Form CMS-485, the nurse is to perform passive and active range of motion exercise to the appellant's upper and lower extremities every shift, only to resistance, as tolerated.
>
> • MassHealth takes the position that this is a skilled task that should not be performed by an unskilled PCA.
>
> • The appellant's PCA is her mother; her mother has been trained to perform this task.
>
> • The appellant concedes that the appellant has some mobility in her upper extremities and that assistance with these limbs would be considered active range of motion.

(Appeal No. 2416274, pp. 15-16.)

The hearing officer concluded that the range of motion exercises to the appellant's upper extremities was "active," and therefore not covered by the PCA program. However, with regards to lower extremities,

> [the] appellant's mother provided credible testimony that she has been extensively trained and works under the guidance of the appellant's physical therapist. While she is not a skilled clinician, she is the appellant's parent and has been performing this task since the appellant's diagnosis. The appellant has demonstrated that the requested time for assistance with passive range of motion exercises to her lower extremities is medically necessary. This portion of the appeal is approved in part (280 minutes of the 560 minutes requested to be approved).

(Appeal No. 2416274, p. 24 (footnote excluded).)[2]

The appellant's mother testified that she is the person who is often training the nurses on how to perform the PROM for her daughter. Even if she were not allowed to be compensated for skilled PROM, a second person is needed to restrain the appellant's body to prevent unwanted movement while the nurse performs the PROM. MassHealth offered no further testimony regarding this topic.

Bathing & Bathing Transfer

The appellant requested 60 minutes per day for a shower (420 minutes per week), 15 minutes per day for a bed bath (105 minutes per week), and 25 minutes per day for a special transfer to the shower (175 minutes per week). (Exhibit 5, pp. 15-16.) MassHealth approved the time for a bed bath but reduced the time for the shower to 45 minutes (315 minutes per week) and 15 minutes per transfer (105 minutes per week). (Exhibit 5, p. 6.)

In Appeal No. 2416274, the hearing officer found the following facts:

> The appellant requested 75 minutes per day, seven days per week [for a shower] (totaling 525 minutes), and 15 minutes per day, seven days per week [for a bed bath] (totaling 105 minutes), for PCA assistance with bathing.
>
> • MassHealth modified the request to 45 minutes per day, seven days per week (totaling 315 minutes).
>
> • Per the Form CMS-485, the nurse is to perform the task of bathing.
>
> • The bathing task is completed with two caregivers, and her daily shower can take at least 60 minutes.
>
> …
>
> The appellant requested 25 minutes per day, seven days per week (totaling 175 minutes) for PCA assistance with bathing transfers.
>
> • MassHealth modified the request to 15 minutes per day, seven days per week (totaling 105 minutes).
> • The transfer process is a lengthy ordeal that takes on average, 25 minutes per episode.

[2] The excluded footnote references the PCA Operating Standards, which provide sub-regulatory guidance regarding appropriate PCA services. Specifically, "skilled care services are not appropriate for a PCA and should be performed by a skilled clinician or a parent. Although the appellant is not a pediatric member, the same rationale can be applied here. That the parent in this case is also the PCA should not change the analysis." (https://www.masslegalservices.org/system/files/library/PCA%20Operating%20Standards.pdf.)

(Appeal No. 2416274, p. 16.)

> According to the "Time-For-Tasks Guidelines for the MassHealth PCA Program," the average time estimate for someone totally dependent for this task is 60 minutes per day (see Guidelines, p. 5). Here, the appellant confirmed that two people are performing this task, which should streamline the process. The appellant has not demonstrated that, with two caregivers assisting, the time for this task should exceed the time set forth in the guidelines. Further, the appellant has demonstrated that 15 minutes per day for assistance with a bed bath is reasonable and necessary. This portion of the appeal is approved in part (60 minutes per day, plus 15 minutes per day, or 525 minutes per week).
>
> …
>
> The appellant clarified that [a bathing transfer] requires two people and noted that the appellant is not transferred directly from bed to her shower chair. Rather, she is transferred first to her wheelchair and then into the shower chair. Given these steps, the appellant has demonstrated that the time requested for bathing transfers is medically necessary. This portion of the appeal is approved.

(Appeal No. 2416274, pp. 24-25.)

The appellant argued that the hearing decision is an approval because the request had been for 75 minutes for bathing plus 15 minutes for a bed bath. MassHealth had allowed a total of 45 minutes per day for bathing tasks. The hearing decision found that the bed bath took 15 minutes and the full bath took 60 minutes. The present request is for the amount of time found by the hearing officer.

MassHealth did not testify to any changes in the appellant's care that would warrant setting aside the previous fair hearing decision on this matter.

Eating

The requested time for eating was 10 minutes, 3 times per day for the PCA to feed the appellant "ice chips, flat soda, tea or chicken broth," and 45 minutes, 3 times per day for total parenteral nutrition (TPN) management (1,155 minutes per week); MassHealth allowed no time. (Exhibit 5, pp. 6, 21.)

MassHealth's representatives testified that these services are already provided through the approved nursing time. MassHealth also reviewed the PCA PCP Summary Form, on which the appellant's PCP check "No" for whether "feeding via enteral tube by someone other than a skilled caregiver [is] clinically appropriate." (Exhibit 5, p. 50.) MassHealth also noted that the appellant's

treatment plan indicates that the appellant is "NPO," meaning no oral intake. (Exhibit 5, p. 70.) MassHealth argued that the appellant's clinical needs and aspiration risk make it inappropriate for a non-skilled worker to provide eating assistance.

The appellant's attorney cited a letter from the appellant's speech pathologist, which states the appellant "continues to require a structured swallow program to maintain the safest level of oral intake possible. This includes completing **approximately 75 therapeutic swallows per session**, using **ice chips and small amounts of real food as tolerated**, under close observation for both overall safety and airway protection." (Exhibit 6, p. 17.) The appellant agreed that the TPN feeding (45 minutes, 3 times per day) should be denied as a skilled service, but they argue the minimal oral consumption for the appellant's swallow program should be allowed for the PCA to perform.

The appellant's attorney concedes that Appeal No. 2416274 did not award any time for eating beyond what MassHealth had allowed. In that prior authorization, the appellant had requested time for the PCA to assist with G-tube feeding in addition to assisting with the swallow program. "The appellant requested 20 minutes, three times per day, seven days per week (totaling 420 minutes) for PCA assistance with eating. MassHealth modified the request to 10 minutes, three times per day, seven days per week (totaling 210 minutes)." (Appeal No. 2416274, p. 17.) The appeal's conclusion on the topic was:

> MassHealth acknowledges that the appellant tries to swallow 75 times per day and allowed time for the PCA to assist with fluid assistance. The appellant argues that the PCA uses food for the swallows, as it is a goal for the appellant to take more food by mouth. The documentation indicates that the appellant is at high risk for aspiration and that her nutritional needs are met via the G-tube. The appellant has therefore not demonstrated that additional time is needed for PCA assistance with eating. The nurse performs the G-tube feeds, and the PCA has been authorized time to provide fluid assistance. This portion of the appeal is denied.

(Appeal No. 2416274, p. 26.)

The appellant argues that MassHealth was correct to allow 10 minutes per day in that prior authorization for the PCA to assist with the swallow program, and that MassHealth was incorrect to deny that time here. MassHealth argues that the clinical documentation with this prior authorization request documents that any oral feeding would be a skilled task. MassHealth highlighted the fact that the lengthiest hospitalization for the appellant since the last fair hearing decision was for pneumatosis, and she was discharged as being NPO. The record also documents that the appellant is a high aspiration risk, which makes any feeding a skilled task.

The appellant's mother testified that the reason the appellant remains NPO in the hospital is because she needs to be kept ready for surgery at any time. When she is home, she is on TPN but still engages in the swallow program. Furthermore, the appellant is always an aspiration risk. She

cannot cough up phlegm or mucus if it drips into her airways, which is why there is constant monitoring and regular suctioning.

It was noted that this does not necessarily make feeding the appellant a non-skilled task. Further, if a nurse is approved 24 hours a day, the nurse could provide feeding assistance. The appellant argued that hand-to-mouth feeding is not a skilled task, and the nurse is usually performing one of the many other tasks they have to do such as monitoring the appellant, pulling meds, or documenting other services. The appellant's representatives highlighted their difficulty with staffing nurses and when there is no nursing available, it is the appellant's parents—her PCAs—who perform all of the skilled tasks including eating assistance.

MassHealth responded that the care plan indicates that the appellant is NPO, so there should be no time for eating. MassHealth also noted the appellant's high risk for nausea, vomiting, and aspiration make any feeding a skilled task, citing 130 CMR 438.000. Furthermore, since the appellant has had a hospitalization for pneumatosis since the last appeal decision, a material change in circumstances would warrant changing the time allowed for eating assistance.

Toileting – Bladder Care

The requested time for bladder care was 25 minutes, 4 times per day for straight catheter assistance (700 minutes per week), and 12 minutes, twice per day for Foley catheter assistance (168 minutes per week). MassHealth approved the Foley catheter assistance but only allowed 10 minutes per straight catheter assistance (280 minutes per week). (Exhibit 5, pp. 6, 22.)

MassHealth's representative testified that the reason for this was that these tasks were available from other services. MassHealth noted that the CMS-485 indicated that skilled nurses were to assist with diapering, catheter site care, remove the Foley in the morning and perform a straight catheterization every 2 hours until the Foley is replaced in the late afternoon. (Exhibit 5, pp. 72, 74.) MassHealth allowed 10 minutes per straight catheterization because time was requested to butterfly the appellant's legs open. MassHealth considers this time to be the appropriate amount of hands-on assistance for holding the appellant's legs in place during straight catheterization.

In Appeal No. 2416274, the hearing officer found the following facts:

> The appellant requested 25 minutes, four times per day, seven days per week (totaling 700 minutes), and 12 minutes, two times per day, seven days per week (totaling 168 minutes), for PCA assistance with bladder care.
>
> • MassHealth modified the request to 10 minutes, six times per day, seven days per week (totaling 420 minutes).
>
> • The appellant requires straight catheterization four times per day due to a neurogenic bladder; the nurse is ordered to perform this task.
>
> • The appellant's straight catheterization can take 25 minutes … ;

> • The PCA assists with the straight catheterization by positioning the appellant's legs and pulling them apart.
>
> • The PCA does the same with the Foley catheterization; she also empties the Foley bag two times overnight and ensures proper flow to prevent back-up.
>
> • The PCA performs hygiene, clothing adjustment, and changes absorbent products as needed for skin integrity.

(Appeal No. 2416274, pp. 17-18.)

The hearing officer concluding that pursuant to "the 'Time-For-Tasks Guidelines for the MassHealth PCA Program,' the average time estimate for someone totally dependent for toileting/bladder care is 25 minutes per task (see Guidelines, p. 10). The appellant's request is within this range, and the testimony was credible. This portion of the appeal is approved." (Appeal No. 2416274, p. 27.)

MassHealth's representative testified that one of the appellant's hospitalizations had been for a urinary tract infection (UTI), which means that her care has changed since the last appeal. MassHealth did not describe how care has changed since the last decision.

The appellant's representatives agreed that care has changed because the appellant is straight-catheterized 6-8 times per day, even though the request only sought 4 instances. The process for straight catheterization has not changed since the prior hearing decision, and it remains exactly as described in that decision. The appellant's mother signed an affidavit and testified regarding the extraordinarily difficult process of catheterizing the appellant.

> A PCA needs to help with this process because of her severe spasticity and paralysis. The process involves the PCA putting [the appellant] on her back or her side. If she is on her back, the PCA needs to 'butterfly' her legs, spreading them far apart, because they want to stay together. The PCA uses body weight on one leg and a hand on her other to maintain this position. Setting up [the appellant's] legs takes 5 to 10 minutes. Also, the PCA holds a flashlight in their mouth or balances a cell phone flashlight on their arm so the nurse can see what she is doing. Also, the PCA needs to hold the bag steady so the urine can enter the bag. It takes between 5 and 10 minutes for the urine to come out because the nurse usually needs to twist and reposition the catheter several times. The goal is to fully empty the bladder to avoid UTIs. After the catheterization, the PCA wipes and cleans up [the appellant], empties the bag, and repositions her, which takes 5 to 10 min due to her paralysis, osteoporosis, severe spasticity, and vertebral fractures. It is crucial to maintain a 45° angle of legs opening for air flow to reduce moisture in her perineal area and reduce risk of open wound infections. The whole process takes 25 minutes, and we do it 6 to 8 times every day.

(Exhibit 6, p. 7.)

When asked to clarify how this practice changed from the previous fair hearing decision, MassHealth's nurse testified that the amount of physical pressure being exerted sounds very aggressive given the appellant's frailty. She also argued that the duration of the catheterization was excessively long. Another MassHealth nurse asked for clarification regarding why the Foley catheter is removed for the straight catheter during the day.

The appellant's mother testified that the appellant's urologist has set this protocol in place to ensure the appellant's bladder is fully emptied in order to reduce UTIs. The appellant's mother clarified that the only UTI the appellant had this year occurred during a hospitalization because the hospital nurses are not able to be as fastidious as the home-care team. She testified that the only reason they use the Foley catheter at night is to allow the appellant some chance to sleep. The appellant's mother also described that the pressure placed on the appellant's body is firm but gentle. The idea is to hold the appellant steady in case she has spasms. The straight catheter is a hard tube, and a strong spasm during catheterization could rupture the appellant's bladder.

Toileting – Bowel Care

The appellant requested 15 minutes, twice per day for bowel care. The prior authorization request states: "[s]ame time requested as approved last PA Bowel regimen including suppository in the AM with digital stimulation due to having no sensation or rectal tone (15x1x7). Additional time for [redacted] with reoccurring UTI's. (15x1x7)." (Exhibit 5, pp. 22-23.) MassHealth denied the requested time for bowel care because it was available through the available nursing or HHA services. (Exhibit 5, p. 6.) MassHealth argued that the last prior authorization requested services differently than are requested here, and MassHealth had only partially approved that request based upon occasional digital stimulation.

The appellant's attorney agreed that the current request is different, and he did not understand why.[3] The prior authorization request last time sought "25 minutes, seven days per week (totaling 175 minutes) for PCA assistance with bowel care." (Appeal No. 2416274, p. 18.) The appellant was willing to accept the time allowed in the previous appeal, rather than the full 30 minutes per day requested during this prior authorization request. The facts found in that case were

- MassHealth modified the request to 15 minutes, seven days per week (totaling 105 minutes).
- The documentation submitted states that the appellant's bowel regimen includes a suppository in the morning with digital stimulation.

[3] The appellant's attorney had initially accepted the modification to bowel care because he believed the appellant would have enough time without it. He asked to address the issue later in the hearing.

• The PCA positions the appellant and provides hygiene and clothing adjustment.

• The appellant needs proper vulvar and peroneal care, as she is susceptible to infection.

• The stool is manually removed, and the entire area is cleaned with gauze and foaming soap and a special wash; [redacted] two creams are applied to the area; a grey fabric is applied to maintain dryness.

(Appeal No. 2416274, p. 18.)

The conclusion was

> The appellant requested 25 minutes, seven days per week (totaling 175 minutes) for PCA assistance with bowel care. MassHealth modified the request to 15 minutes, seven days per week (totaling 105 minutes). MassHealth modified these requests because the time requested is longer than is required for someone with the appellant's physical needs. The documentation submitted states that the appellant's bowel regimen includes a suppository in the morning with digital stimulation; the PCA positions the appellant and provides hygiene and clothing adjustment. The appellant argues that this task takes 25 minutes due to recent complications, [redacted] The appellant's mother described the process of this task: stool is manually removed; the entire area is cleaned with gauze and foaming soap and a special wash; [redacted] two creams are applied to the area; and fabric is applied to maintain dryness. According to the "Time- For-Tasks Guidelines for the MassHealth PCA Program," the average time estimate for someone totally dependent for toileting/bowel care is 25 minutes per task (see Guidelines, p. 10). The appellant's request is within this range, and the testimony was credible. This portion of the appeal is approved.

(Appeal No. 2416274, p. 27.)

The appellant's mother testified regarding the process around the appellant's bowel care. This process is also described in the appellant's mother's affidavit as well as in a deferral response to MassHealth during the prior authorization review process. (See Exhibit 5, pp. 98-99.)

> **Poop protocol**:
>
> 1. After repositioning her with upper leg closer to her chest, lower leg held in place against spasms

2. Place 5 baby chucks with folded lips and a high edge diaper diagonally under [the appellant.] …

3. Fold three large gauze squares as instructed. [redacted]. A third over leg or foley as applicable. If this is not done correctly, [the appellant] has backflow of [redacted]

4. After suppository placement or any breakthrough excrement coming out:

5. Clean up feces with wipes. Volume is typically anywhere from ¼ cup – 4 cups. (Bristol Scale 5-6).

6. Use no rinse foam with gauze pad to gently pat and dry the [redacted]

7. Once each morning and night place Vash Antimicrobial Cleanser-soaked cloths for 20-minutes on her skin about 3-4 inches beyond soil zone. We implemented this treatment after one of [the appellant's] inpatient stays in 2025.

8. Once dry, use triple paste ointment extending placement 3-4 inches beyond soil zone, or if there's an open sore, the prescription cream for wound care.

9. Lay precut pieces of Inter dry cloth to maintain a dry peri area

(Exhibit 6, pp. 7-8.)

The appellant's mother testified that the entire bowel care process takes about 2 hours, so either the original 25 minutes or the new 15 minutes, twice per day remains insufficient to cover the amount of time spent on the care provided. Once the suppository is placed, it takes about 2 hours to pull out the appellant's feces and then cleaning up. The appellant described 15 minutes of setup, 5-10 minutes for placement of the suppository, each chuck being removed takes over a minute to swap the diapers and chucks. The appellant's mother acknowledged that there is a lot of waiting and monitoring because the feces needs to be dealt with immediately in order to prevent skin breakdown or infections.

Other Healthcare Needs

MassHealth acknowledged that it has a calculation error in its modified time, as it had denied 8 minutes per week for menses care. MassHealth agreed to restore this modified time.

Otherwise, the appellant requested 15 minutes, twice per day for "PCA to soak sterile gauze with Vashe wash, applies to soaked sterile gauze to open wounds and fragile skin areas (while consumer is in butterfly position)" (210 minutes per week); MassHealth allowed no time for this task. (Exhibit 5, pp. 6, 26-27.) MassHealth's representative testified that this is a skilled service and is

documented in the care plan as a nursing service. For the problem of "Impaired Integument/Wound," the CMS-485 states skilled nursing is to provide a "Bleach bath daily as needed for eczema outbreaks."[4] (Exhibit 5, p. 75.) For the problem of "Skin Integrity," the CMS-485 documents a skilled nurse is to "Assess and monitor skin integrity … . Provide instruction to Pt/Cg regarding skin integrity treatment and/or prevention. … Provide instruction to the Pt/Cg regarding frequent position changes." (Exhibit 5, p. 76.)

The appellant's representative acknowledged that wound care was not approved during the prior hearing decision.[5] The appellant argued that the reason wounds were not approved in the past was because they were not as common as they are now. The appellant's mother's affidavit describes:

> [The appellant] has open, closed, and scabbed-over wounds that we need to dress, undress, and treat. Currently open wounds are on her upper inner thighs at crease and lower spine. Also, she has 6 fluid- filled blisters on her back that we're watching. We track and apply whichever medications instructed by [the appellant's] dermatologist. Wound care is a constant need and is required to prevent life-threatening infections.

(Exhibit 6, p. 8.)

The appellant's dermatologist wrote that the appellant has

> asteototic eczema, xerosi, and chronic urticaria. Her paralysis, immobility, and medical fragility place her at high risk for pressure injuries and skin breakdown. She cannot reposition herself or reliably sense or report early skin changes.
>
> Her vulnerability has increased with severe pneumatosis and dependence on home TPN, both of which impair healing and heighten the risk of rapid skin deterioration. For these reasons, continuous PCA and skilled nursing support remain medically necessary to protect her skin integrity and prevent avoidable complications.

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[4] The appellant was surprised to learn that there was no time requested for bleach baths. Bleach baths had been requested during the last prior authorization, and their denial was upheld in Appeal No. 2416274 because "the appellant did not document the medical necessity of this request … ." (p. 27.)

[5] Wound care is not discussed at all in the prior decision, except to the extent that gauzes and skin care is integral to bowel care: "the entire area is cleaned with gauze and foaming soap and a special wash; [redacted] two creams are applied to the area; and fabric is applied to maintain dryness." (Appeal No. 2416274, p. 27.)

(Exhibit 6, p. 14.)

The appellant's attorney argues that wound care can be a skilled task, but it can also be an unskilled task. Functionally, the care is performed by both nurses and PCAs. He also argued that it takes more time than 15 minutes, twice per day. MassHealth's representative responded that the dermatologist's note states that it "is important that her skin is monitored and treated vigilantly in order to prevent infection." This implies a skilled assessment is being done, which cannot be performed by a PCA as they are not clinicians. The appellant's mother testified that there are nurses to provide clinical monitoring, assessment, and decision-making. However, she argued that the hands-on care part is not skilled once the course of action is set out by the nurse. She testified that hospitals regularly have aides performing Vashe washes and apply sterile gauze. Furthermore, the appellant's mother argued that if the nurse is not there, she is the one who has to care for the appellant.

The appellant's attorney requested the opportunity to submit additional clinical documentation from the dermatologist that this wound care is not skilled.

Meal Preparation

The appellant requested 15 minutes per day for meal preparation. MassHealth allowed no time for this task. (Exhibit 5, pp. 6, 31.) The appellant's mother testified that the swallow program is constantly trying to find more complex things for the appellant to consume to help with her digestion. Ice chips are the baseline, and then there is a variety of other foods that the appellant's mother prepares. This food cannot have spices, but she tries to make it aromatic to keep it as enticing as possible. She has worked closely with the appellant's medical care team to understand the limits and ranges of substances that the appellant can try and when. The requested time was the amount of time that had been authorized during the last prior authorization period.

MassHealth's representative testified that the appellant is NPO, has pneumatosis, and she is on bowel rest. Therefore, there should be no reason for there to be meal preparation.

In the past appeal, the appellant had "requested 75 minutes per day, seven days per week (totaling 525 minutes) for PCA assistance with meal preparation. MassHealth modified the request to 15 minutes per day, seven days per week (totaling 105 minutes)." (Appeal No. 2416274, p. 19.) The hearing officer concluded that the 15 minutes per day approved by MassHealth "for the PCA to prepare liquids for the appellant to utilize for her swallowing exercises" was sufficient because additional eating was not documented as medically necessary. (Appeal No. 2416274, p. 28.)

The appellant's representatives acknowledged that Appeal No. 2416274 did not order meal preparation time beyond what MassHealth had allowed independently. However, they argued that meal preparation time should be allowed because it is part of the medically appropriate swallow program.

MD Transportation

The appellant requested 124 minutes per week for transportation to medical appointments.[6] This time was calculated based upon 12 trips to providers in [redacted] (roundtrip travel time of 140 minutes), 26 trips to a neuro-oncologist with roundtrip travel time of 80 minutes, 2 trips to the dentist with roundtrip travel time of 80 minutes, and 52 trips for chemo labs at 40 minutes roundtrip. (Exhibit 5, p. 35.) MassHealth authorized 45 minutes per week, reducing the weekly labs trips to 12 visits per year and reducing the 26 neuro-oncologist trips to 12. (Exhibit 5, p. 6.) MassHealth's representative acknowledged that there is a mathematical error in MassHealth's determination, and that the modified time should have been 66 minutes per week. MassHealth reduced the number of chemo lab trips because the appellant has a port from which blood draws can be taken at home.

The appellant's representatives testified that the appellant goes to a hospital in [redacted] at least once per week, and that those trips are 90 minutes one-way. (Exhibit 6, p. 9.) There are over 70 providers in [redacted] who will only treat the appellant in-person. The appellant accepted that this frequency of appointments was not requested, but they feel it is inaccurate to reduce the appellant's transportation time at all. Regarding the chemo labs, the appellant needs to have her heparin levels measured at the lab because the level cannot be taken from her central port. The labs near the appellant do not have testing abilities to test pre-drawn blood. If the heparin level is off, the appellant needs to go back to the lab the following day to be retested. Also, if the appellant's heparin is being adjusted, she needs to be seen weekly for labs.

MassHealth argued that the heparin levels are drawn monthly, and the testimony regarding return visits are "anticipatory." MassHealth will only approve time that can be reasonably predicted. Also, MassHealth argued that the appellant going to Boston weekly is outside the scope of this hearing because it was not requested by the PCM agency.

The appellant argued the same logic should apply to MassHealth's approval of nighttime hours. MassHealth approved nighttime hours despite the appellant reporting that nighttime services were provided by an HHA.

MassHealth had also modified time regarding oral care (reducing time by 42 minutes per week) and medication management (reducing time by 1,373 minutes per week). The appellant accepted these modifications based upon the assumption that this time was not needed to achieve the desired number of PCA hours.

The appellant requested that the hearing record be kept open for additional clinical documentation regarding the PCA's role in eating assistance, meal preparation, and wound care. The appellant's

[6] The PCM agency appears to have rounded down to 124 minutes. The raw weekly travel time is either 124.9 or 125.05 depending on how the average is derived. Nor does the PCM agency appear to have requested any transfer time associated with these medical appointments.

Neuro-Oncologist submitted a letter explaining that the appellant "participates in taste trials of real food as tolerated. They are ordered by [the appellant]'s medical team to stimulate her oral–sensory system, support emotional well-being, and maintain any potential for future rehabilitative progress toward safe oral intake." (Exhibit 8.) The appellant attempts to complete 75 swallows per day, and she may consume "ice chips or small amounts of real food as tolerated and are medically recommended to preserve her swallow function, reduce secretion burden, and mitigate risk of further functional decline." (Exhibit 8.)

> PCA involvement in feeding and oral care is required as [the appellant]'s swallow dysfunction makes her an aspiration and choking risk. Personal care attendants may appropriately assist with feeding, including providing ice chips and therapeutic food tasting trials as above. [The appellant's parents] have been extensively trained, have provided years of safe, competent feeding assistance, and carry out these tasks under the supervision and guidance of [the appellant]'s clinical team, including speech therapy and home nursing when present. The parents' involvement as PCAs is necessary, appropriate, safe, and medically acceptable.
>
> … PCA involvement in wound care is required due to [the appellant]'s dermatologic fragility and the effects of prolonged immobility. Her dermatology team at [redacted] has explicitly instructed the family on the required wound-care procedures, creams, and protocols. Given [the appellant's parents'] training, extensive experience, and ongoing adherence to medical direction, their involvement as PCAs in this manner address a medically necessary and clinically important role. The PCAs perform wound care, dressing changes, and skin-protective measures. Their participation is necessary to maintain [the appellant]'s skin integrity, prevent infection, and avoid hospitalization.
>
> … Meal preparation in [the appellant]'s case includes creating therapeutic smells and textures, preparing tolerated foods for oral-sensory stimulation and offering ice chips. These activities are part of her prescribed therapy plan and fall well within appropriate PCA responsibilities.

(Exhibit 8.)

MassHealth's response highlighted the fact that the appellant's "swallow dysfunction makes her an aspiration and choking risk." MassHealth's position remained that feeding and wound care are skilled services and the appellant has sufficient nursing care to provide these services. Meal preparation also remained denied as "not medically necessary," because "the appellant receives primary nutrition via Total Parenteral Nutrition (TPN) … ." (Exhibit 9.)

Findings of Fact

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

1) The appellant is a young adult who resides with her parents. Her primary diagnoses include [redacted] hydrocephalus with shunt, bilateral lower extremity paraplegia, and pneumatosis of colon. (Exhibit 5, p. 8.)

2) The appellant is eligible for MassHealth through the Moving Forward Plan (MFP) – Community Living Waiver. (Exhibit 5, p. 80.)

3) The appellant was invited to participate in MassHealth's CCM program but has declined participation. (Testimony by the appellant's representatives.)

4) The facts underlying the appellant's care and condition are also reviewed in Appeal No. 2416274 (Mar. 2025).

5) Since that hearing decision, the appellant has been hospitalized 4 times for pneumatosis, total parenteral nutrition (TPN), a UTI, and clogged ports. (Exhibit 5, p. 9.)

6) The appellant is approved for "101-168 hours per week" of nursing services through private insurance and 78 hours per week of HHA assistance through the MFP waiver. (Exhibit 5, pp. 70, 80; testimony by MassHealth's representatives.)

7) On or around October 16, 2025, [redacted] submitted a reevaluation for personal care attendant (PCA) services on the appellant's behalf. This request sought 140 hours and 30 minutes per week of PCA services, including 14 nighttime hours. (Exhibit 5, pp. 2-3.)

8) Through a notice dated October 29, 2025, MassHealth modified the appellant's request for personal care attendant services. MassHealth made about 18 modifications to this request and authorized 68 hours and 15 minutes per week. The prior authorization period runs from November 15, 2025, to November 14, 2026. (Exhibit 1.)

9) MassHealth acknowledged that the approved time included 2 calculation errors: 8 minutes per week for menses care had been removed, and MD transportation time was modified to 45 minutes per week instead of 66 minutes per week. (Testimony by MassHealth's representative.)

10) The appellant acknowledged that the requested time was excessive and accepted the following modifications: 1,155 minutes per week for TPN management; 42 minutes per week reduction for oral care; and 1,373 minutes per week for medication management. (Testimony by the appellant's representatives.)

11) The appellant requested 25 minutes, 6 times per day (1,050 minutes per week) for assistance with transferring. (Exhibit 5, p. 12.)

    a. MassHealth authorized 15 minutes per transfer (630 minutes per week). (Exhibit 5, p. 6.)

    b. In Appeal No. 2416274 the appellant had requested 25 minutes, 6 times per day for transfers and MassHealth modified the request to 15 minutes per transfer. The hearing officer found the transfer process takes 25 minutes per transfer and ordered the restoration of the requested transfer time. (Appeal No. 2416274, pp. 15, 23.)

    c. MassHealth agreed that no material facts had changed regarding the transferring of the appellant since this decision was issued but rather tried to dispute the legitimacy of the finding. (Testimony by MassHealth's representatives.)

12) The appellant requested 10 minutes, twice per day for each lower extremity (280 minutes per week). (Exhibit 5, p. 6.)

    a. MassHealth authorized 1 instance of PROM per leg per day (140 minutes per week). (Exhibit 5, p. 14.)

    b. In Appeal No. 2416274, the appellant requested 10 minutes, twice per day for all extremities. MassHealth allowed no time. (Appeal No. 2416274, pp. 15-16.)

    c. In Appeal No. 2416274, the hearing officer denied upper extremity PROM because the appellant has some upper mobility but approved the requested PCA time for PROM in the lower extremities as it was "performed by both the nurse and the PCA." (Appeal No. 2416274, p. 24.)

    d. MassHealth offered no reason why these findings or conclusions should be set aside. (Testimony by MassHealth's representatives.)

13) The appellant requested 60 minutes per day for a shower (420 minutes per week), 15 minutes per day for a bed bath (105 minutes per week), and 25 minutes per day for a special transfer to the shower (175 minutes per week). (Exhibit 5, pp. 15-16.)

    a. MassHealth approved the time for a bed bath but reduced the time for the shower to 45 minutes (315 minutes per week) and 15 minutes per transfer (105 minutes per week). (Exhibit 5, p. 6.)

    b. In Appeal No. 2416274 the appellant had requested 75 minutes per shower, 15 minutes per bed bath, and 25 minutes per special transfer. MassHealth modified

the total bathing time to 45 minutes and the transfer time to 15 minutes. (Appeal No. 2416274, p. 16.)

c. In Appeal No. 2416274 the hearing officer found that the appellant's transfer takes 25 minutes of PCA time, and the shower takes 60 minutes of PCA time to complete. (Appeal No. 2416274, pp. 16, 24-25.)

d. MassHealth did not identify any changes in the appellant's care since this hearing decision that would require that would invalidate these findings. (Testimony by MassHealth's representative.)

14) The appellant requested 10 minutes, 3 times per day for the PCA to feed the appellant "ice chips, flat soda, tea or chicken broth," and 45 minutes, 3 times per day for total parenteral nutrition (TPN) management (1,155 minutes per week). (Exhibit 5, p. 21.)

a. MassHealth allowed no PCA time for eating assistance. (Exhibit 5, p. 6.)

b. The appellant is prescribed a therapeutic swallow regimen where she is expected to swallow ice chips and small amounts of food as tolerated 75 times per day. (Exhibit 6, p. 17; Exhibit 8.)

c. The appellant's "swallow dysfunction makes her an aspiration and choking risk. … [The appellant's parents] have been extensively trained, have provided years of safe, competent feeding assistance, and carry out these tasks under the supervision and guidance of [the appellant]'s clinical team, including speech therapy and home nursing when present." (Exhibit 8.)

d. In Appeal No. 2416274, MassHealth had authorized 10 minutes, three times per day for the PCA to assist with fluid assistance. The hearing officer did not approve any time for the PCA to provide eating assistance. (Appeal No. 2416274, pp. 17, 26.)

15) The requested time for bladder care was 25 minutes, 4 times per day for straight catheter assistance (700 minutes per week), and 12 minutes, twice per day for Foley catheter assistance (168 minutes per week). (Exhibit 5, p. 22.)

a. MassHealth approved the Foley catheter assistance but only allowed 10 minutes per straight catheter assistance (280 minutes per week). (Exhibit 5, p. 6, 22.)

b. In Appeal No. 2416274 the appellant requested 25 minutes, four times per day for straight catheter assistance. MassHealth modified the time to 10 minutes per instance of assistance. The hearing officer found that straight catheterization takes 25 minutes and the PCA assists throughout the entire process. (Appeal No. 2416274, pp. 17-18, 27.)

c. MassHealth did not identify any changes in the appellant's care that from the previous hearing decision. (Testimony by MassHealth's representatives.)

16) The appellant requested 15 minutes, twice per day for bowel care. (Exhibit 5, pp. 22-23.)

a. MassHealth denied all time for PCA assistance with bowel care, arguing that other care providers were available to perform this task. (Exhibit 5, p. 6; testimony by MassHealth's representative.)

b. In Appeal No. 2416274, the appellant had requested 25 minutes per day and MassHealth modified the request to 15 minutes per day. The hearing officer found as a fact that the "PCA positions the appellant and provides hygiene and clothing adjustment." The decision approved the requested time but did not make a finding as to how long the PCA actually engaged in the task of bowel care. (Appeal No. 2416274, pp. 18, 27.)

c. The entire bowel care process takes about 2 hours, but it involves a significant amount of waiting time. The PCA participates in setting up for the bowel care regime for 15 minutes, assists in placing the suppository for 5 to 10 minutes, and helps with hygiene management each time a diaper and chuck is removed and replaced. An average of 5 diapers and chucks are used per bowel movement. (Testimony by the appellant's representative.)

17) The appellant requested 15 minutes, twice per day for the "PCA to soak sterile gauze with Vashe wash, applies to soaked sterile gauze to open wounds and fragile skin areas (while consumer is in butterfly position)" (210 minutes per week). (Exhibit 5, p. 26-27.)

a. MassHealth allowed no time for this task, arguing that the appellant's wound care is a skilled service that must be provided by a nurse, citing the CMS-485 plan of care. (Exhibit 5, p. 6; testimony by MassHealth's representative.)

b. The CMS-485 plan of care documents that a nurse is to assess and monitor the appellant's skin and instruct the appellant's caregivers regarding treatment. (Exhibit 5, p. 75-76.)

c. The appellant has open wounds on her upper inner thighs at crease and lower spine, and fluid- filled blisters on her back that her care team is watching. (Exhibit 6, p. 8; testimony by the appellant's mother.)

d. The appellant's parents' are extensively trained to perform wound care, dressing changes, and skin-protective measures. (Exhibit 8; testimony by the appellant's mother.)

18) The appellant requested 5 minutes, 3 times per day for meal preparation (105 minutes per week). (Exhibit 5, p. 31.)

    a. MassHealth denied time for this task because the submitted documentation documents that the appellant is NPO and on bowel rest. (Exhibit 5, p. 6; testimony by MassHealth's representative.)

    b. MassHealth allowed 15 minutes per day in the past "for the PCA to prepare liquids for the appellant to utilize for her swallowing exercises … ." (Appeal No. 2416274, p. 28.)

    c. The appellant's PCA prepares food in an attempt to entice the appellant into consuming more complex and stimulating substances for her swallow therapy as ordered by the appellant's medical providers. (Exhibit 6, p. 17; Exhibit 8.)

19) The PCM agency requested 124 minutes per week for transportation to medical appointments. This time is premised upon 12 trips to providers in [redacted] with roundtrip time of 140 minutes, 26 trips to a neuro-oncologist at 80 minutes, 2 trips to the dentist at 80 minutes, and 52 trips for chemo labs at 40 minutes. No time was requested for transferring. (Exhibit 5, p. 35.)

    a. MassHealth reduced the number of visits to the neuro-oncologist and chemo lab to 12 each. (Exhibit 5, p. 6.)

    b. Through a calculation error, MassHealth approved 45 minutes per week instead of 66 minutes per week. MassHealth agreed to restore the 21-minute difference. (Testimony by MassHealth's representative.)

    c. The appellant must attend labs monthly to have a heparin level test. If her heparin level is off, she must return the next day to be retested. If her medications are adjusted, she needs to attend weekly. (Testimony by MassHealth's representative and the appellant's mother.)

Analysis and Conclusions of Law

As a preliminary matter, this appeal is DISMISSED with regards to the modifications to oral care (42 minutes per week), TPN (945 minutes per week), and medication management (1,373 minutes per week) as the appellant accepted those modifications. This appeal is also DISMISSED with regards to the calculation errors in menses care (8 minutes per week) and MD transportation (21 minutes per week) as MassHealth agreed to restore this time. (See 130 CMR 610.035(A)(8), 610.051(B).)

Finality of Hearing Decisions

One of several complicating factors in the review of this prior authorization request is the fact that a fair hearing decision has already addressed many of the disputed facts.

> (A) Except as otherwise provided under 130 CMR 610.085(B), 610.085(C), and 610.091, the following will apply.
>
> (1) **The decision of the hearing officer will be final and binding on the acting entity**.
>
> (2) The acting entity will not interfere with the independence of the fact-finding process of the hearing officer. **Facts found and issues decided by the hearing officer in each case are binding on the parties to that case and cannot be disputed again between them in any other administrative proceeding nor used as binding precedent by other parties in other proceedings**.
>
> (B) A hearing decision that directs the MassHealth agency or managed care contractor to authorize or pay for a medical service will have no effect if the appellant has not scheduled or received such medical service within one year from the date of the hearing decision.
>
> (C) In the case of a decision affecting a member enrolled in an ICO, where both the BOH and the IRE have issued a ruling, the ICO is bound by the rulings and will provide the services which are closest to the enrollee's relief requested on appeal.

(130 CMR 610.085 (emphasis added).)

Paragraph (A)(2) is clear that facts and issues decided in a fair hearing decision "cannot be disputed again between" the parties to that particular case, though the fair hearing decision cannot be used as precedent "by other parties … ." The primary exception to this rule is that the "Medicaid director (but not his or her designee) may, for good cause shown, send an order for the BOH Director to conduct a rehearing of an appeal." (130 CMR 610.091(A).) That did not occur with regards to Appeal No. 2416274.

This regulation is akin to the legal concept of issue preclusion. (See Kobrin v. Bd. of Reg. in Medicine, 444 Mass. 837, 843-844 (2005)). Fair hearings are not formal adjudications, but the regulations can be read to preclude issues where the "issue in the prior adjudication was identical to the issue in the current adjudication," and it was "essential to the earlier judgment." (Kobrin at 843-844 (citations omitted).) Therefore, if material facts, or the governing regulations, have changed in between adjudications, the prior decision need not be applied. Similarly, if the prior adjudication makes a finding that is not essential to the legal conclusion, it need not be preserved.

Appeal No. 2416274 made conclusive determinations essential to the outcome of that appeal with regards to transfers, lower extremity PROM, bathing and bathing transfers, bladder care, and bowel care. The decision on bowel care is slightly different, as the previous prior authorization request sought only 25 minutes per day, whereas here the request is 30 minutes.

Appeal No. 2416274 did not make preclusive determinations regarding the requests here for eating or meal preparation, because the time requested was already approved by MassHealth. The issue of wound care was not addressed at all, and the remaining issue of MD transportation was that there was insufficient evidence to establish that more medical appointments took place than were approved. Therefore, this decision shall address the merits of 5 minutes of bowel care, eating, meal preparation, wound care, and MD transportation.

Duplication of Services

The appellant notes that their nursing services are approved through private health insurance and their HHA services are approved under the MFP waiver. Fundamentally, this should be irrelevant to MassHealth's review of services. MassHealth should always be "the payer of last resort." (130 CMR 450.316.) This means that "medically necessary" services should be determined without regards to whether MassHealth pays for them.

Furthermore, services provided through the MFP waiver are MassHealth services: "The MassHealth agency pays for HCBS waiver services provided to a participant who resides in a home- or community-based setting … ." (130 CMR 630.407(A).) "The MassHealth agency does not pay for any HCBS waiver services that are furnished before the development of the service plan or that are not included in a participant's service plan pursuant to 130 CMR 630.409(A)." (130 CMR 630.408(A).) "Personal care services" are available through an MFP waiver service plan, albeit with the limitation that "[h]omemaker, home health aide, personal care, adult companion, individual support and community habilitation, and supportive home care aide services, in combination are limited to no more than 84 hours per week." (130 CMR 630.427(B).)

MassHealth raised no objection to the fact that the appellant was requesting services through the MFP waiver and MassHealth directly. MassHealth was willing to approve over 69 hours of PCA services outside of the waiver plan, so this issue cannot be the basis for their argument that the PCA services were duplicative of other services.

MassHealth's representatives arguments were mostly general, asserting that the requested time was duplicative, excessive, or otherwise not appropriate. The only specific testimony regarding duplication of services was in regard to certain nursing tasks that had already been found to require 2 people. In most of these cases, the PCA's time has already been approved in Appeal No. 2416274 as the amount of time needed for the PCA to participate in a 2-person task with a nurse. Furthermore, nursing services would only be approved for skilled services, which cannot be performed by a PCA, as will be discussed further below.

Regarding duplication of HHA services, MassHealth should be able to directly compare the approved HHA services and the requested PCA services. The only description of the HHA services in the record is from the waiver plan of care that states HHA hours are approved for 78 hours per week "No Change in this Service." The appellant has always been forthright that the HHA hours were to be used overnight, but MassHealth still approved nighttime PCA hours. It is therefore impossible for this fair hearing decision to address MassHealth's claims regarding duplication of services with regards to HHA services or find that there was a change in available services that would allow for the prior hearing decision to be displaced.

Request for PCA Services

Prior authorization for PCA services determines the medical necessity of the authorized service. (130 CMR 422.416.) The regulations define a service as "medically necessary" if 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." (130 CMR 450.204(A).) "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." (130 CMR 450.204(B).) A provider must make those records, including medical records, available to MassHealth upon request. (130 CMR 450.204(B)); 42 U.S.C. § 1396a(a)(30), 42 CFR §§ 440.230, 440.260.)

MassHealth generally covers PCA services provided to eligible MassHealth members with a permanent or chronic disability that impairs their functional ability to perform activities of daily living ("ADLs") and instrumental activities of daily living ("IADLs"), but who can be appropriately cared for in the home. MassHealth will only approve these services when they are medically necessary, and the member requires assistance with at least two ADLs. (See 130 CMR 422.403(C).) Members are responsible for hiring and training their own PCAs. (130 CMR 422.420(A)(6); see also 130 CMR 422.422(A) (PCM agency must confirm member is able to employ and direct PCAs, or else have a surrogate.).)

Requests must "be submitted on MassHealth forms in accordance with the billing instructions in the Personal Care Manual Subchapter 5, and 130 CMR 422.416." (130 CMR 422.416.) MassHealth only pays for services "specified in the evaluation described in 130 CMR 422.422(C) and (D), and as authorized by the MassHealth agency." (130 CMR 422.411(A).) MassHealth may approve, deny, or modify the prior authorization request. (130 CMR 422.417.) When MassHealth denies or modifies the request, it sends a written notice of "the reason for the denial or modification and will inform the member of the right to appeal and of the appeal procedure." (130 CMR 422.417(B)(1).) Additional sub-regulatory guidance is published by MassHealth in the PCA Operating Standards.[7]

[7] The PCA Operating Standards are not published on MassHealth's website, but they have been made available online following a public records request. (Available at https://www.

MassHealth will consider individual circumstances in determining the number of hours of PCA services that a member needs, but it assumes that family members will provide most routine IADLs.[8] (See 130 CMR 422.410(C).) Further, there are certain services that MassHealth will not cover:

> (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 [electronic visit verification] as required by the MassHealth agency.

(130 CMR 422.412.)

A fair hearing may be held on "any MassHealth agency action to suspend, reduce, terminate, or restrict a member's assistance; … [or] individual MassHealth agency determinations regarding scope and amount of assistance (including, but not limited to, level-of-care determinations) … ." (130 CMR 610.032.) This implicitly limits the scope of review to the action by MassHealth in reviewing the prior authorization request. This means both: (1) the member's PCM evaluation cannot be addressed de novo to do add time in categories where it was not requested; and (2) the

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masslegalservices.org/system/files/library/PCA%20Operating%20Standards.pdf (last visited Feb. 4, 2026).)

[8] The PCA Program regulation defines "Family Member" narrowly to be "the spouse of the member, the parent **of a minor member**, including an adoptive parent, or any legally responsible relative." (130 CMR 422.402 (emphasis added).) Because the appellant is an adult, her parents are not "family members" for the purposes of this regulation.

hearing decision should not displace time authorized by MassHealth where it was clearly erroneously approved, such as nighttime PCA services.

Skilled vs. Unskilled Services – What May a PCA Provide

There is no distinction in the PCA regulations between skilled and unskilled tasks. MassHealth pays for "activity time performed by a PCA in providing assistance with ADLs and IADLs as described in 130 CMR 422.410." (130 CMR 422.411(A).)

ADLs 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.

(130 CMR 422.410(A).)

IADLs include:

> (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.

(130 CMR 422.410(B).)

The PCA Operating Standards provide sub-regulatory guidance regarding what is a skilled task. To summarize this guidance, a PCM nurse uses their clinical judgment and assessment skills to determine what services are appropriate to include in the PCA evaluation request. (PCA Operating Standards, p. 62.) Sometimes there are questions related to the appropriateness of PCA services versus skilled nursing service, and MassHealth's Prior Authorization Unit may perform their own in-person assessment to determine the appropriateness of having the PCA perform the task. (PCA Operating Standards, p. 50.)

Most of the specific guidance regarding skilled care is in the section regarding "Pediatric PCA" evaluations. This section states that "[s]killed care services are not appropriate services to be completed by a PCA and generally should not be requested." (PCA Operating Standards, p. 63.) Examples "of skilled care services that are generally performed by trained healthcare professionals" include complex wound care, nebulizer treatments, and chest vest therapy. (PCA Operating Standards, p. 63.)

The overall impression given by the PCA Operating Standards is that "skilled care" is a sliding scale. All of the guidance regarding skilled and unskilled service includes modifiers to indicate that the guidance is not absolute; e.g. "generally should not be requested," "generally performed by trained healthcare professionals," the nurse evaluator "assesses if the task can be safely performed … by the PCA." Further, the Prior Authorization Unit can have a nurse perform their own in-person evaluation to resolve "[s]ituations where there are questions related to the appropriateness of PCA services versus skilled nursing service."

It is clear that MassHealth's prohibition on PCAs performing medical services is primarily aimed at prohibiting medical services provided to children by a PCA.[9] Children are not able to direct their own care, and where a family member is available to closely direct a medical service, they could provide that service themselves, making it a non-covered service. (See 130 CMR 422.412(F).) Adults are typically responsible for directing their own care, meaning that the knowledge and responsibility for performing a task resides principally with the member. (130 CMR 422.422(A).)

Other regulations also delineate nursing services. MassHealth cited 130 CMR 438.000, governing continuous skilled nursing services. "Nursing services" are defined as "the assessment, planning, intervention, and evaluation of goal-oriented nursing care that requires specialized knowledge and

[9] Some of the examples of skilled care services inappropriate to be provided to a child are regularly approved for PCAs to perform. Nebulizer treatments are so commonly approved that "Physical assist with Nebulizer treatment" is a published category of assistance on the evaluation form, whether or not it is requested.

skills acquired under the established curriculum of school of nursing approved by a board of registration in nursing. Such services include only those services that require the skills of a nurse." (130 CMR 438.402; see also 130 CMR 630.402.)

> (A) Clinical Criteria for Nursing Services.
>
> (1) A nursing service is a service 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.
>
> (2) 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.
>
> (3) 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**.

(130 CMR 438.410(A)(1)-(3) (emphasis added).)

When MassHealth authorizes payment for nursing facility level of care, it requires that the member meet certain care requirements, including the need for nursing services. (130 CMR 456.409(A), (C).) This regulation includes certain services that are always skilled, such as "intravenous, intramuscular, or subcutaneous injection, or intravenous feeding … " (130 CMR 456.409(A)(1)), but also lists many services that may be skilled if they "require nursing care and monitoring" (130 CMR 456.409(C)(8)).

I am persuaded that the overall design of the PCA program seeks to limit PCAs from providing services that are "skilled." Because MassHealth authorizes PCA hours generally, not a specific PCA to provide specific care, this programmatic limit is reasonable. The fact that the appellant's parents have unique training and knowledge to the appellant's care does not change the nature of the request for PCA services.[10]

[10] In Appeal No. 2416274, lower extremity PROM was approved for the PCA to perform despite MassHealth's argument that it was a skilled task. The language of the decision states the "task is performed by both the nurse and the PCA." In this appeal, the appellant's mother described how she is needed to keep the appellant's body stable during PROM. It is assumed that decision was authorizing time for a PCA to assist a nurse with a skilled task, not authorizing a PCA to perform a skilled task.

Skilled Care – Eating & Wound Care

Whether or not the requested care is a skilled service is a factual determination based upon a nurse's assessment of whether the task can be safely performed "by the average nonmedical person." The fact that the appellant's parents are her PCAs places them in an unfortunate position in relation to how MassHealth approves time for long-term services and supports. When MassHealth approves time for continuous skilled nursing, it does so only for members who also have available "unpaid caregivers" who agree to be taught by nurses "to manage the member's treatment regimen" in the absence of available nurses. (See 130 CMR 438.415(B); 438.402 ("Primary Natural Caregiver").) The fact that the appellant does not receive CSN services through MassHealth does not change the fact that PCAs may not provide skilled care.

The question then is whether the described care for eating assistance and wound care should be categorized as skilled. I find that these tasks are skilled care based upon the opinions of the appellant's own medical care team. For eating, the appellant's doctors emphasized how complex her swallow dysfunction is. The opinion submitted during the record open period notes that the appellant's parents have been extensively trained through years of practice to provide eating assistance safely. Implicitly, this opinion supports MassHealth's general assertion that any other person who could be hired as a PCA could not provide this care, even under the direct supervision of a nurse. This indicates that the care is skilled and should not be covered by the PCA program. This appeal is DENIED with regards to eating assistance.

Similarly, the requested wound care is DENIED. I do believe that some components of this care may be performed by a PCA under supervision and direction of a nurse. The appellant's mother argued that nurses often direct non-nurses to apply sterile gauze or provide skin care in the hospital. Ultimately, this denial is based upon a lack of evidence regarding what aspects of the requested skin care could be appropriately carved out as unskilled. The description of the appellant's wounds describes them as "open," and the appellant's doctor emphasized the parents' extensive training in this area of care. Based upon this factual record, I cannot conclude that the requested care would be appropriate for any PCA to perform even under the direct supervision of a nurse.

Unskilled Tasks – Bowel Care, Meal Preparation, & MD Transportation

MassHealth denied bowel care, arguing that it was a duplication of services, not skilled care per se. Appeal No. 2416274 approved 25 minutes per day for the PCA to participate in bowel care, this implicitly finds that there are non-skilled tasks required as part of the appellant's daily bowel care. I agree with this assessment. The appellant's bowel care regimen is intensive and lengthy. The appellant's mother testified that the process requires 2 people, as is the case with much of the appellant's hands-on care. MassHealth is reasonable to conclude that the second person in this care would be a nurse, but that does not make the PCA's participation in this care is unnecessary. In fact, it weighs in favor of the conclusion that the PCA's participation is with unskilled or directed care. The appellant's mother testified regarding discrete tasks that totaled 25-30 minutes, without addressing the time necessary to clean up afterwards. I credit this testimony regarding active,

unskilled assistance provided by the PCA during bowel care. Therefore, this aspect of the appeal is APPROVED. The appellant is entitled to 30 minutes per day (15 minutes, twice per day) for unskilled bowel care assistance from a PCA.

This appeal is also APPROVED with regard to meal preparation. MassHealth's only objection to meal preparation was that the CMS-485 describes the appellant as NPO. There is significant evidence in the record that the appellant's swallowing program has progressed to include food in addition to liquids. The fact that the appellant's parents cannot be paid as PCAs to provide eating assistance does not prevent them from preparing the food or liquids for the appellant.

Finally, this appeal must be DENIED with regard to MD transportation. The appellant has again provided insufficient evidence regarding the frequency of their medical appointments. The way in which time was requested appears to be erroneous. The appellant's mother testified that the frequency and duration of travel time for appointments in [redacted] were drastically insufficient. Furthermore, no time was requested for transferring the appellant into or out of the vehicle. Because these errors were made by the PCM agency, it is inappropriate to review them de novo in a fair hearing decision. The appellant's mother also testified that there can be weekly lab trips, but she was unspecific as to how often this was required. If an average frequency per year can be established for this 'anticipatory' time, it could be approved.

Order for MassHealth

Remove Aid Pending. Reinstate the time approved in Appeal No. 2416274 for transfers, lower extremity PROM, bathing and bathing transfers, and bladder care:

Transfers: 420 minutes per week (1,050 – 630)

Passive Range of Motion: 140 minutes per week (280 – 140)

Bathing: 105 minutes per week (420 – 315)

Bathing Transfers: 70 minutes per week (175 – 105)

Bladder Care: 420 minutes per week (700 – 280)

Further restore all time requested for bowel care and meal preparation:

Bowel Care: 210 minutes per week (210 – 210)

Meal Preparation: 105 minutes per week (105 – 105)

Confirm that the calculation errors in menses care and MD transportation are corrected:

Menses Care: 8 minutes per week

MD Transportation: 21 minutes per week (66 – 45)

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 the Office of Long Term Services and Supports. 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.

Christopher Jones
Hearing Officer
Board of Hearings

[redacted]

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