

# Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



<b>Appeal Decision:</b>	Approved	<b>Appeal Number:</b>	2176115
<b>Decision Date:</b>	9/24/2021	<b>Hearing Date:</b>	09/22/2021
<b>Hearing Officer:</b>	Christine Therrien		

**Appearance for Appellant:**  
Pro se

**Appearance for MassHealth:**  
Cassandra Horne, Appeals and Grievances  
Supervisor



*The Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
Office of Medicaid  
Board of Hearings  
100 Hancock Street, Quincy, Massachusetts 02171*

# APPEAL DECISION

<b>Appeal Decision:</b>	Approved	<b>Issue:</b>	CCA
<b>Decision Date:</b>	9/24/2021	<b>Hearing Date:</b>	09/22/2021
<b>MassHealth's CCA Rep.:</b>	Cassandra Horne	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Quincy Harbor South	<b>Aid Pending:</b>	Yes

## Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapter 118E, Chapter 30A, and the rules and regulations promulgated thereunder.

## Jurisdiction

The Appellant received a Notice of Adverse Action from Commonwealth Care Alliance (CCA)<sup>1</sup> dated 4/24/2021, denying a prior authorization request for 3.5 hours of homemaking services (Exhibit 1). The Appellant appeal the action in a timely manner on 8/10/2021, (130 CMR 610.015(B); Exhibit 1). Denial of a request for prior authorization is valid grounds for appeal (130 CMR 610.032).

## Action Taken by CCA

CCA denied the Appellant's prior authorization request for 3.5 hours of homemaking services.

## Issue

Was CCA correct in determining the appellant did not qualify for 3.5 hours of homemaking services?

## Summary of Evidence

The CCA representative testified that a request for authorization of 3.5 hours of homemaking services was received by CCA. The CCA representative testified that the dates of services are from 3/25/21 through 9/30/21. The CCA representative testified that the appellant qualified for aid pending until

---

<sup>1</sup> Commonwealth Care Alliance is a MassHealth managed care contractor as defined by regulations at 130 CMR 610.004 and described in regulations at 130 CMR 508.000.

5/22/21, while the Level I appeal was taking place. The CCA representative testified that there was a Level I appeal that was denied on 3/25/21. The CCA representative testified that the request was denied because the appellant lives with her spouse and per MassHealth regulation 130 CMR 630.408, MassHealth will not pay for homemaking services when a member is living with a family member. The CCA representative testified that this Level 2 appeal was submitted on 8/10/21.

The appellant testified that her husband works from 9:00 or 10:00 AM until 11:00 PM six days a week. The appellant testified that her husband does not have time to do the shopping, laundry, and housekeeping that is required. The appellant testified that due to the pandemic her husband has been working longer hours because he is a chef in a restaurant, and they are understaffed. The appellant stated that if her husband did not work so much, they would be homeless because they are so low income. The appellant testified that she has Ehlers-Danlos Syndrome and POTS therefore it is impossible for her to do the laundry and the housekeeping. The appellant testified further that her husband has a truck that she is unable to drive and that she does not have her own car therefore she cannot do the shopping. The appellant testified that she was previously approved for 5 hours of homemaking services and this was reduced to 3.5 hours without any notification.

The CCA representative testified that the prior request indicated that the appellant's husband worked far away.

## **Findings of Fact**

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

1. A request for authorization of 3.5 hours of homemaking services was received by CCA.
2. The dates of services are from 3/25/21 through 9/30/21.
3. The appellant qualified for aid pending until 5/22/21, during the Level I appeal process.
4. The Level 1 appeal that was denied on 3/25/21.
5. The request was denied because the appellant lives with her spouse, and per MassHealth regulation 130 CMR 630.408, and MassHealth will not pay for homemaking services when a member is living with family.
6. This Level II appeal was submitted on 8/10/21.
7. The appellant testified that her husband works from 9:00 or 10:00 AM until 11:00 PM six days a week.
8. The appellant testified that she has Ehlers-Danlos Syndrome and POTS, therefore it is impossible for her to do the laundry and the housekeeping.
9. The appellant was previously approved for 5 hours of homemaking services and this was

reduced to 3.5 hours.

10. The prior request indicated that the appellant's husband worked far away.

## Analysis and Conclusions of Law

Regulations at 630.408: Nonpayable Services details what services are not covered under the Home and Community Based Services (HCBS) waiver program.

- (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).
- (B) The MassHealth agency does not pay for HCBS waiver services that are provided to any individual other than the participant who is eligible to receive such services and for whom such services are approved in the service plan.
- (C) The MassHealth agency does not pay an HCBS waiver provider for
  - (1) any service that is not listed as a covered service for the participant under 130 CMR 630.405;
  - (2) any service that is not authorized in the service plan;
  - (3) any service to a person who is a resident or inpatient of a hospital, nursing facility, intermediate care facility for the mentally retarded, or any other medical facility subject to state licensure or certification, except for respite services, in accordance with 130 CMR 630.424, and transitional assistance, in accordance with 130 CMR 630.432;
  - (4) any service to a participant who is receiving a service from another home- and community-based waiver program;
  - (5) the cost of room and board, unless provided as part of respite care in accordance with 130 CMR 630.424;
  - (6) the cost of maintenance, upkeep, an improvement, or home accessibility adaptations to a residential habilitation site, group home, or other residential facility; and
  - (7) the cost of maintenance, upkeep, or an improvement to a participant's place of residence, except for home accessibility adaptations in accordance with 130 CMR 630.415, and transitional assistance in accordance with 130 CMR 630.432.
- (D) The MassHealth agency does not pay for HCBS waiver services furnished by legally responsible individuals as defined in 130 CMR 630.402.
- (E) The MassHealth agency does not pay for HCBS waiver services that are unsafe, inappropriate, or unnecessary for a participant. Each HCBS waiver provider is responsible for ensuring that the HCBS waiver services it provides are safe, appropriate, and necessary for the participant.
- (F) The MassHealth agency does not pay for HCBS waiver services in excess of the units identified and authorized in the participant's service plan.
- (G) The MassHealth agency does not pay for HCBS waiver services that duplicate care provided by another payment source or by a family member or legally responsible individual as defined in 130 CMR 630.402.**
- (H) Additional information about nonpayable services by service type is located as applicable in 130 CMR 630.410 through 630.434.

(emphasis added)

The regulation states that duplicated services will not be covered under the HCBS waiver. The appellant's spouse works unusually long hours due to staffing shortages and cannot assist with the homemaking tasks being requested. Since the appellant's spouse is not able to perform these tasks the requested services are not duplicative per the wording in the regulation. For this reason, the appeal is approved.

## **Order for MassHealth**

Reinstate 3.5 hours of homemaking each week.

## **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.

---

Christine Therrien  
Hearing Officer  
Board of Hearings

cc: Commonwealth Care Alliance SCO, Attn: Cassandra Horne, 30 Winter Street, Boston, MA  
02108