

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



|                         |                |                       |            |
|-------------------------|----------------|-----------------------|------------|
| <b>Appeal Decision:</b> | Denied         | <b>Appeal Number:</b> | 2177909    |
| <b>Decision Date:</b>   | 1/05/2022      | <b>Hearing Date:</b>  | 11/23/2021 |
| <b>Hearing Officer:</b> | Marc Tonaszuck |                       |            |

**Appearance for Appellant:**

Pro se

**Appearance for Commonwealth Care Alliance (CCA) Senior Care Organization (SCO):**  
Cassandra Horne, Grievances and Appeals 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>  | Denied   | <b>Issue:</b>            | SCO - DME  |
| <b>Decision Date:</b>    | 1/05/2022  | <b>Hearing Date:</b>     | 11/23/2021 |
| <b>CCA SCO's Rep.:</b>   | Cassandra Horne,<br>Grievances and<br>Appeals Supervisor | <b>Appellant's Rep.:</b> | Pro se     |
| <b>Hearing Location:</b> | Quincy Harbor<br>South                                   |                          |            |

## Authority

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

## Jurisdiction

The appellant received a notice dated 10/01/2021 from Commonwealth Care Alliance (CCA), a MassHealth senior care organization (SCO) for individuals eligible for MassHealth and Medicare, that it denied coverage of a mobile personal emergency response system (PERS) because it is a non-covered service (Exhibit 1). The appellant filed this appeal with the Board of Hearings in a timely manner on 10/13/2021<sup>1</sup> (130 CMR 610.015(B); Exhibit 2).

Members enrolled in a MassHealth senior care organization have a right to request a fair hearing for a decision to deny or provide limited authorization of a requested service, provided the member has exhausted all remedies available through the

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<sup>1</sup> In MassHealth Eligibility Operations Memo (EOM) 20-09 dated 04/07/2020, MassHealth states the following:

- Regarding Fair Hearings during the COVID-19 outbreak national emergency, and through the end of month in which such national emergency period ends;
  - All appeal hearings will be telephonic; and
  - Individuals will have up to 120 days, instead of the standard 30 days, to request a fair hearing for member eligibility-related concerns.

managed care contractor's internal appeals process (130 CMR 508.010). The appellant exhausted CCA's internal appeals process.

## **Action Taken by MassHealth**

CCA, a MassHealth SCO, denied the appellant's request for a mobile personal emergency response system (PERS).

## **Issue**

Was CCA, a MassHealth SCO, correct in denying the appellant's request for a mobile PERS?

## **Summary of Evidence**

Cassandra Horne, a representative from CCA, a MassHealth senior care organization (SCO), appeared telephonically. Ms. Horne testified that the appellant receives both MassHealth and Medicare benefits and is a MassHealth member enrolled in CCA as an SCO. On 09/21/2021, the appellant requested an emergency response system, installation, testing and service. According to CCA's documentation this item is:

An electronic device connected to person's land-line or cellular telephone. Cellular PERS may be authorized only if the member does not have a land-line. In an emergency, PERS can be activated either by pushing a small button on a pendant or bracelet, pressing the help button on the console unit, or by an adaptive switch set-up. When the device is activated, a person from the 24-hours-a-day, seven-days-a-week central monitoring station answers the call, speaks to the member via the console unit, assesses the need for help, and take appropriate action.

(Exhibit 5, p. 57.)

This request was approved on 09/24/2021 (Exhibit 4). On 08/26/2021, the appellant requested a mobile PERS, which would provide the appellant with similar services when she is outside the home. On 08/27/2021, the mobile PERS was denied as a non-covered service. On 09/01/2021, the appellant filed a level 1 appeal with CCA. On 09/22/2021, her level 1 appeal was denied. She filed a level 2 appeal and on 10/01/2021, her level 2 appeal was denied by CCA. She appealed to the Board of Hearings, having exhausted the CCA appeals process.

The appellant appeared at the fair hearing and testified telephonically that she is a fall risk. She fell out of her car approximately eight months ago and fractured her collar bone. She testified that she needs a mobile PERS because she does not only fall while

she is inside the home. She reports she has balance issues because of an old seizure in her brain. She feels dizzy and has fallen six times while outside the home. Her physician supports her request for the mobile PERS. The appellant stated that if she falls while she is outside the home again, she will sue CCA if she is not provided with the mobile PERS (Exhibit 4).

## **Findings of Fact**

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

1. The appellant is over 65 years of age and is a member of CCA, a MassHealth SCO (Testimony).
2. CCA complies with the CCA benefit structure and MassHealth regulations (Testimony).
3. On 08/26/2021, the appellant requested a mobile personal emergency response system (PERS), which would provide the appellant emergency services while she is outside her home (Testimony; Exhibit 5).
4. On 08/27/2021, CCA denied the request for the mobile PERS was denied as a non-covered service (Testimony; Exhibit 5).
5. On 09/01/2021, the appellant filed a level 1 appeal with CCA (Testimony; Exhibit 5).
6. On 09/22/2021, the appellant's level 1 appeal was denied (Testimony; Exhibit 5).
7. The appellant filed a level 2 appeal and on 10/01/2021, her level 2 appeal was denied by CCA (Testimony; Exhibits 1 and 5).
8. On 10/13/2021, the appellant appealed CCA's level 2 denial to the Board of Hearings, having exhausted the CCA appeals process (Testimony; Exhibits 2 and 5).
9. On 09/21/2021, the appellant requested an in-home emergency response system PERS, installation, testing and service. This request was approved on 09/24/2021 (Testimony; Exhibits 4 and 5).

## **Analysis and Conclusions of Law**

MassHealth regulations at 130 CMR 508.008(C) address obtaining services when enrolled in an senior care organization (SCO) as follows:

When a member chooses to enroll in a senior care organization (SCO) in

accordance with the requirements under 130 CMR 508.008, the SCO will deliver the member's primary care and will authorize, arrange, integrate, and coordinate the provision of all covered services for the member. Upon enrollment, each SCO is required to provide evidence of its coverage, including a complete list of participating providers, the range of available covered services, what to do for emergency conditions and urgent care needs, and how to obtain access to covered services such as specialty, behavioral health, and long-term-care services.

The appellant has the burden "to demonstrate the invalidity of the administrative determination." See *Andrews vs. Division of Medical Assistance*, 68 Mass. App. Ct. 228. Moreover, the burden is on the appealing party to demonstrate the invalidity of the administrative determination. See *Fisch v. Board of Registration in Med.*, 437 Mass. 128, 131 (2002); *Faith Assembly of God of S. Dennis & Hyannis, Inc. v. State Bldg. Code Commn.*, 11 Mass. App. Ct. 333 , 334 (1981); *Haverhill Mun. Hosp. v. Commissioner of the Div. of Med. Assistance*, 45 Mass. App. Ct. 386 , 390 (1998).

It is the appellant's burden to show by a preponderance of proof that CCA's determination is either not supported by the facts or not supported by the relevant law. In this case, the appellant submitted testimony and evidence that she would benefit from a mobile PERS; however, the evidence did not include any information to show that CCA is required to provide the requested equipment. Additionally, neither party has identified any MassHealth regulation relating to its coverage of PERS, either for in-home or out-of-home use. CCA's medical necessity guideline addresses its coverage and limitations for PERS devices as follows, "CCA does not cover mobile PERS; that is, a PERS with cellular technology that can be used outside the home environment" (Exhibit 4, p. 58). The appellant was approved for an in-home unit, installation and service; however, she has not shown by the requisite quantum of proof that CCA's decision to deny the mobile PERS violates MassHealth's or its own regulations, policies, or procedures. Accordingly, this appeal is denied.

## **Order for SCO**

None.

## **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.

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Marc Tonaszuck  
Hearing Officer  
Board of Hearings

cc:

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