

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



**Appeal Decision:** Approved in part;  
Denied in part;  
Dismissed in part

**Appeal Number:** 2303922

**Decision Date:** 7/18/2023

**Hearing Date:** 06/20/2023

**Hearing Officer:** Alexandra Shube

**Appearance for Appellant:**

*Via telephone:*

Pro se

**Appearance for Respondent, Commonwealth  
Care Alliance (CCA)**

*Via telephone:*

Cassandra Horne, Appeals & Grievances  
Manager

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*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 in part; Denied in part; Dismissed in part	<b>Issue:</b>	Prior authorization – PCA
<b>Decision Date:</b>	7/18/2023	<b>Hearing Date:</b>	06/20/2023
<b>CCA's Rep.:</b>	Cassandra Horn, et al	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Quincy Harbor South Remote	<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

Through a Denial of Level 1 Appeal dated May 2, 2023, Commonwealth Care Alliance (“CCA”) denied the appellant’s internal appeal regarding personal care attendant services because it determined the requested level of services were not medically necessary. Exhibit 2. The appellant filed this appeal in a timely manner on May 11, 2023. Exhibit 2; 130 CMR 610.015(B). A managed care contractor’s decision to deny or provide limited authorization of a requested service is grounds for appeal. 130 CMR 610.032(B).

### Action Taken by Commonwealth Care Alliance

CCA reduced the number of personal care attendant hours it authorized for the appellant from 39 day/evening hours and 14 nighttime hours per week down to 33 day/evening hours and 14 nighttime hours per week.

## Issue

The appeal issue is whether CCA was correct, pursuant to 130 CMR 422.000 and 450.204, in determining that the appellant required fewer hours of personal care attendant assistance than she had been receiving.

## Summary of Evidence

CCA's representative and the appellant appeared at hearing via telephone. CCA testified as follows: the appellant is over the age of 65 and has been enrolled in CCA's senior care organization (SCO), a managed care organization that coordinates Medicaid and Medicare benefits for enrollees, since October 1, 2022. The appellant's primary diagnoses include chronic kidney disease stage 5, diabetes, blindness, urinary incontinence, pain, hypertension, and sleep apnea. She is a dialysis patient and has a history of transient ischemic attack (TIA). On or around March 13, 2023, CCA evaluated the appellant for personal care attendant (PCA) services. This evaluation involved a nurse visiting the appellant and observing her perform various tasks around her home. An occupational therapist attended the evaluation virtually. Prior to this evaluation and prior to the appellant being with CCA, the most recent PCA evaluation occurred on February 22, 2021 over the phone and the appellant was authorized for 39 hours of day/evening assistance and 2 nighttime hours per night. Following the March 13, 2023 evaluation by CCA, CCA notified the appellant on March 31, 2023 that her PCA hours would be reduced to 33 hours of day/evening assistance and 2 nighttime hours per night effective May 1, 2023. The areas reduced were mobility and transfers, bathing, oral care, hair care, nail care, application of lotion and deodorant, shaving, bladder care, and laundry. The appellant has been in aid pending and receiving 39 hours per week of day/evening assistance and 2 nighttime hours per night.

The appellant appealed the notice internally with CCA on April 13, 2023. The CCA medical director reviewed the case and denied the internal appeal on May 2, 2023 because the requested level of services were not medically necessary. This is the action now under appeal. In its denial, CCA stated the following in relevant part:

Our records show that you can walk in your home independently using your cane. You report you need some help occasionally when going up and down stairs. You use your rollator walker out in the community. Less time is needed for help with washing your hair. Your hair is washed in the sink three (3) times per week. Less time is needed for help with bladder care. You are on dialysis and do not urinate as frequently each day. Less time is needed for help with laundry because the machines are in the home. Less time is needed for help with some grooming tasks. You see a podiatrist for help with toenail care. You have your fingernails done at a salon. Therefore, the Personal Care Attendant (PCA) does not need to complete these tasks. Less time is needed for help with shaving and hair care. Less time is

needed for help with applying lotion. The Personal Care Attendant (PCA) only applies lotion to your lower legs and feet. Personal Care Attendant (PCA) for 33-day hours and 14-night hours per week is enough to meet your needs...

You require less time per ambulation and transfer episode, with Occupational Therapist (OT) assessing you to be minimum assist. You report you no longer need assistance with changing incontinence pads and have less frequency of toilet transfer due to less urine production. You no longer have your period. Therefore, less time for toileting is required... It is noted you were provided additional time for medication management, blood sugar monitoring, CPAP machine maintenance, paperwork, appointments, medical transportation and with breakfast increased to maximum time per episode. You report to need more Personal Care Attendant (PCA) time for potential concerns. If your knee gives out or there is a safety concern in your neighborhood, however guidelines state Commonwealth Care Alliance (CCA) is not permitted to authorize time for supervision or preventative reasons.

At hearing, CCA explained that because the appellant was deemed a minimum assist for mobility, she was given 140 minutes per week for mobility, which included time for PCA assistance as follows: 1 minute, 4 times per day, 7 days per week for mobility; 2 minutes, 2 times per day, 7 days per week to help with stairs in and out of her home; and 3 minutes, 4 times per day, 7 days per week for transfers. CCA explained that she needs assistance at times due to her medical condition, but she was considered a minimum assist due to the fluctuations in when she needs the help. As a result, they gave her time daily for all these mobility activities even though she was independent with them on the day of evaluation.

The appellant explained that there are days when she can get up, but also days when she cannot due to the medications she takes. She experiences nausea and has no strength on those days. She has dialysis three days a week and she always feels worse when she comes home from dialysis, which is very draining. She is completely blind and lives alone. It is comforting knowing there are people in her home to care for her and she wants to continue to stay in her home. The appellant also testified that she has carpal tunnel syndrome and cannot press down on her hands and wrists to help herself up. She usually walks with a cane in her home but on days when she is having a harder time, she uses a walker. On a good day, she can get in and out of a chair, but she also has a power chair to assist with it.

CCA originally modified bathing to 30 minutes per day, 7 days per week and did not approve an additional 10 minutes per day for an evening quick wash for incontinence. CCA stated that she uses pads for bladder incontinence and is not incontinent of bowels. The appellant testified that one of her medications causes loose bowels and even though she is on dialysis, she is still urinating quite a bit, especially when she has a urinary tract infection, which she does now. She showers every day and still needs an evening quick wash every night. With the warmer weather, she also showers more due to perspiration. Based on her testimony, CCA restored the time for a daily

evening quick wash.

CCA testified that it approved the appellant for 87 minutes per week for the following grooming tasks: 2 minutes, 2 times per day, 7 days per week for oral care; 5 minutes, 1 time per day, 7 days per week for hair care; 3 minutes, 1 time per week for shaving; and 3 minutes, 1 time per day, 7 days per week for applying lotion and deodorant. CCA approved no time for nail care because she sees a podiatrist for her toenails and gets fingernails done at a salon. Previously, the appellant had been approved for 168 minutes per week for assistance with grooming.<sup>1</sup> Time for hair care was reduced because it was reported that the appellant wears a wig and less time is needed for styling. The appellant responded that she only sometimes wears a wig. Other times, she requires braids or a perm. She is fully blind. She is particular about how she looks and needs her PCA to arrange her hair. The appellant cannot afford to go to the hairdresser and her PCA does the braids and perms. It takes longer than 5 minutes per day to do her hair. Based on her testimony, CCA agreed to approve 10 minutes per day for haircare.

The appellant testified that she is diabetic, has very dry, itchy skin, and needs lotion applied to her back multiple times per day. She also needs lotion applied to her feet. She is not a small woman and it takes a couple of minutes for each application. CCA responded that additional time was provided (3 minutes, 2 times per day, 7 day per week) under assistance with medication for application of topical medicated lotion.

As to oral care, the appellant uses dentures. The PCA has tried to show her how to apply the cream to them, but due to her blindness, she makes a mess of it and it gets all over her gums and the bathroom. She needs the PCA to apply the cream to the dentures. CCA responded that the appellant can brush the teeth herself and the PCA is only assisting with the setting up the dentures and toothpaste. She has neuropathy at the ends of her fingers and arthritis in her fingers which contribute to her difficulty in caring for her dentures.

As to shaving, the appellant does not shave due to ingrown hairs, but she still needs time approved for assistance with applying and removing the hair removal cream that she uses in place of shaving. She uses the cream three to four times a week and treats her legs, underarms, and bikini area. Based on the testimony, CCA increased shaving to 3 minutes, 1 time per day, 3 days per week.

The appellant also explained that she only sees the podiatrist every two months for toenail care and goes to the salon for her fingernails once a month. So, she still needs time for assistance with nail care during the week from her PCA.

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<sup>1</sup> The February 2021 evaluation did not specify which times went with which tasks; however, based on the frequency, it appears that the following time was previously approved for grooming tasks: 5 minutes, 1 time per day, 1 time per week for nail care; 3 minutes, 2 times per day, 7 days per week for oral care; 10 minutes, 1 time per day, 7 days per week for hair care; 10 minutes, 1 time per day, 3 days per week for shaving; and 3 minutes, 1 time per day, 7 days per week for lotion/deodorant application. Exhibit 5 at 99.

CCA testified that it approved 105 minutes per week (5 minutes, 3 times per day, 7 days per week) for bladder care. Previously, she was approved for 280 minutes per week (5 minutes, 8 times per day, 7 days per week). Time for assistance with bladder care was decreased because of her decreased urine output due to dialysis. Additionally, the evaluation determined she required the minimum level of assistance with bladder care.

The appellant responded that her body is still putting out urine and she is having more frequent urinary tract infections, which causes her to urinate more often. The PCA helps her get the pads situated. She tries to wear pads all the time, but she still sometimes has leaks and has to change her clothes often. She needs more help depending on how she is feeling. As mentioned, she feels worse when she comes home from dialysis. Dialysis is Mondays, Wednesdays, and Fridays and she spends about 5 hours there on those days.

CCA stated that it cannot approve time for possible or preventative needs. The evaluation showed that she can transfer on and off the toilet independently. Assistance was given 3 times per day because of how often the pads are changed and for clothing management when there are leaks. Additionally, she previously only had her PCA 5.5 hours per week, which suggests she is able to use the bathroom and manage incontinent products independently when the PCA is not present. The appellant responded that her PCA comes every day and is very dedicated to meeting her needs.

CCA testified that compared to her last prior authorization, it increased the time for assistance with medication management and meal preparation; however, time for assistance with laundry was reduced to 60 minutes per week, from 90 minutes per week. Pursuant to the time per task guidelines for the MassHealth PCA program, 60 minutes per week is standard if the laundry is done in the consumer's home, not a laundromat.<sup>2</sup> It includes time for assistance with the physical act of doing laundry – sorting, putting it in the washing machine and then into the dryer, folding, ironing, and putting away the clothes.

The appellant testified that, between her clothing, undergarments, towels, and sheets, laundry is done several (at least three to four) times per week. The PCA does almost all of it because of arthritis in her hands. She also has trigger finger in a couple of fingers. She usually has to change her sheets two to three times per week because of her body's clamminess and sweating at night. She also goes through frequent clothing changes due to urinary leaks.

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<sup>2</sup> Under "Average Time Estimates," the time for task guidelines states "For laundry routinely done in consumer's home or apartment building: 15-60 minutes/week (per load). For laundry routinely done out of home: 90 minutes/week (total)." Exhibit 5, page 57.

## Findings of Fact

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

1. The appellant is over the age of 65 and has been enrolled in CCA's SCO since October 1, 2022. (Testimony and Exhibit 5).
2. The appellant's primary diagnoses include chronic kidney disease stage 5, diabetes, blindness, urinary incontinence, pain, hypertension, and sleep apnea. She is a dialysis patient and has a history of TIA. (Testimony and Exhibit 5).
3. On or around March 13, 2023, CCA evaluated the appellant for PCA services. Prior to CCA's evaluation, she had been authorized for 39 hours of day/evening assistance and 2 nighttime hours per night. (Testimony and Exhibit 5).
4. On March 31, 2023, CCA notified the appellant that her PCA hours would be reduced to 33 hours of day/evening assistance and 2 nighttime hours per night effective May 1, 2023. The areas reduced were mobility and transfers, bathing, oral care, hair care, nail care, application of lotion and deodorant, shaving, bladder care, and laundry. (Testimony and Exhibit 5).
5. On April 13, 2023, the appellant filed an internal appeal. (Testimony and Exhibit 5).
6. The appellant has been in aid pending and receiving 39 hours per week of day/evening assistance and 2 nighttime hours per night during the appeal process. (Testimony and Exhibit 5).
7. The CCA medical director reviewed the case and denied the internal appeal on May 2, 2023 because the requested level of services were not medically necessary. (Testimony and Exhibit 5).
8. The appellant filed this appeal in a timely manner on May 11, 2023. (Exhibit 2).
9. At hearing, parties came to agreement on time for PCA assistance with bathing, hair care, and shaving. CCA approved 10 minutes per day for an evening quick wash; 10 minutes per day for hair care; and 3 minutes, 3 times per week for shaving. (Testimony).
10. The issues remaining in dispute are time for PCA assistance with mobility; oral care; application of lotion and deodorant; nail care; bladder care; and laundry. (Testimony and Exhibit 5).

11. Mobility:
  - i. CCA approved 140 minutes per week for mobility, which included time for PCA assistance as follows: 1 minute, 4 times per day, 7 days per week for mobility; 2 minutes, 2 times per day, 7 days per week to help with stairs in and out of her home; and 3 minutes, 4 times per day, 7 days per week for transfers. (Testimony and Exhibit 5 at 86).
  - ii. Based on the evaluation, the appellant needs assistance at times due to her medical condition, but is considered a minimum assist due to the fluctuations of when she needs the help. She was independent with mobility on the day of the evaluation. (Testimony and Exhibit 5 at 86).
  - iii. The appellant has dialysis three days per week and is weaker on those days. She has carpal tunnel syndrome which makes it difficult to press down on her hands and wrists to help herself up. She has a power chair to assist. (Testimony).
12. Grooming: Oral Care:
  - i. CCA approved 2 minutes, 2 times per day, 7 days per week for PCA assistance with oral care. (Testimony and Exhibit 5 at 88).
  - ii. The appellant uses dentures, but is completely blind and has difficulty applying the cream to them. She has neuropathy at the ends of her fingers and arthritis in her fingers which contribute to her difficulty in caring for her dentures. (Testimony and Exhibit 5).
  - iii. The appellant can brush her teeth herself, but the PCA assists with setting up the dentures and toothpaste. (Testimony and Exhibit 5).
13. Grooming: Lotion and Deodorant Application:
  - i. CCA approved 3 minutes, 1 time per day, 7 days per week for application of lotion and deodorant in the grooming section of the PCA authorization. (Testimony and Exhibit 5 at 88).
  - ii. CCA approved 3 minutes, 2 times per day, 7 days per week for application of topical medications under assistance with medication (Testimony and Exhibit 5 at 90-91).
14. Grooming: Nail Care:
  - i. CCA did not approve any time for nail care because she sees a podiatrist for her toenails and gets her fingernails done at a salon (Testimony and Exhibit 5).
  - ii. The appellant testified that she only sees the podiatrist once every two months for toenail care and goes to the salon for her fingernails once a month. So, she still needs time for assistance with nail care during the week from her PCA.
15. Bladder Care:
  - i. CCA approved 105 minutes per week (5 minutes, 3 times per day, 7 days per week) for PCA assistance with bladder care. The time approved was decreased because of her decreased urine output due to dialysis. Additionally, the evaluation determined she required minimum level of assistance with bladder care. The appellant can transfer on and off the toilet independently. (Testimony and Exhibit 5 at 90).



- ii. The appellant testified that her body is still putting out urine, despite dialysis. The PCA helps her get the pads situated, but she still leaks and needs frequent clothing changes. (Testimony).

16. Laundry:

- i. CCA approved 60 minutes per week for PCA assistance with laundry care.
- ii. The appellant does multiple loads of laundry per week and has to change her sheets two to three times per week because of sweating at night. She also goes through frequent clothing changes due to urinary leaks.

## Analysis and Conclusions of Law

A “senior care organization” or “SCO” is a comprehensive network of medical, health care and social service providers that integrates all components of care, either directly or through subcontracts. SCOs will be responsible for providing enrollees with the full continuum of Medicare and MassHealth covered services. MGL Ch. 18E, § 9D(a). A MassHealth member must elect to enroll in an SCO, and once they do so, the SCO delivers the member’s primary care and is in charge of authorizing, arranging, integrating, and coordinating the provision of all covered services for the member. 130 CMR 508.003. Whenever an SCO makes a coverage decision, it must provide notice to the affected member. 130 CMR 508.011. An SCO has 30 days to resolve any internal appeals, and the member then has 120 days to request a fair hearing from the Board of Hearings. See 130 CMR 508.012; 130 CMR 610.015(B)(7).

MassHealth is required to cover all services and treatments that are “medically necessary”:

(A) A service is “medically necessary” if:

- (1) 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; and
- (2) there is no other medical service or site of service, comparable in effect, available, and suitable for the member requesting the service, that is more conservative or less costly to the MassHealth agency. Services that are less costly to the MassHealth agency include, but are not limited to, health care reasonably known by the provider, or identified by the MassHealth agency pursuant to a prior-authorization request, to be available to the member through sources described in 130 CMR 450.317(C), 503.007, or 517.007.

130 CMR 450.204(A).

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.

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 basic care such as bathing, personal hygiene, and grooming skills;
- (4) dressing or undressing: 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 and 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 personal care 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).

As a preliminary matter, there is no longer any dispute regarding bathing, hair care, and shaving. The parties resolved those issues at hearing and this appeal is dismissed in part with regards to

these issues.<sup>3</sup> See 130 CMR 610.051(B).

The remaining disputes between the parties involve time for PCA assistance with mobility; oral care; application of lotion and deodorant; nail care; bladder care; and laundry.

Regarding mobility, the appeal is denied. The appellant has not demonstrated that hands-on PCA assistance with mobility and transfers takes longer than the time approved. The appellant's need for assistance with mobility and transfers fluctuates due to her medical condition. On the day of the evaluation, however, she was independent with mobility and transfers. CCA determined that she requires minimum level of assistance with mobility and transfers, but approved some time daily for those days when she needs more assistance due to her medical condition. For these reasons, the appellant has not shown that any further PCA assistance with mobility and transfers is medically necessary.

Regarding oral care, the appeal is denied. The appellant has not demonstrated that hands-on PCA assistance with oral care takes longer than the time approved. She requires PCA assistance to set up her dentures and toothbrush, but can brush her teeth herself. For these reasons, the appellant has not shown that any further PCA assistance with oral care is medically necessary.

Regarding application of lotion and deodorant, the appeal is denied. The appellant has not demonstrated that hands-on PCA assistance with application of lotion and deodorant takes longer than the time approved. While the appellant credibly testified that she needs lotion applied multiple times per day due to her medical conditions and dry skin, CCA approved additional time for lotion application under assistance with medications.

Regarding nail care, the appeal is approved. CCA did not approve any time for nail care because the appellant sees a podiatrist for her feet and goes to a salon for her fingernails; however, the appellant credibly testified that she only sees the podiatrist once every two months and only goes to the salon for her fingernails once per month. She needs PCA assistance to care for her feet and hands in between those appointments. For these reasons, the appellant has sufficiently demonstrated that PCA assistance with nail care is medically necessary. The appellant is approved for 5 minutes, 1 time per day, 1 day per week for nail care.

Regarding bladder care, the appeal is approved in part and denied in part. The appellant is completely blind and the PCA assists the appellant with clothing management and placement of pads. Despite being on dialysis, she credibly testified that she still urinates often and needs frequent clothing changes due to leaks. While she did not sufficiently establish that assistance with bladder was needed 8 times per day (as was previously approved), she has sufficiently

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<sup>3</sup> Parties agreed to the following: 10 minutes per day for assistance with an evening quick wash (under bathing); 10 minutes per day for assistance with hair care (under grooming); and 3 minutes, 3 times per week for assistance with shaving (under grooming).

demonstrated that more time is medically necessary for assistance with bladder care due to her medical condition. For these reasons, the appellant is approved for 5 minutes, 5 times per day, 7 days per week for assistance with bladder care.

Regarding laundry care, the appeal is approved. CCA approved the appellant for 60 minutes of assistance with laundry per week. Previously, she had been approved for 90 minutes per week. CCA reduced it because the laundry is in the appellant's home. The appellant credibly testified that her medical conditions result in an excessive amount of laundry. She has frequent clothing changes due to urinary leaks and needs her bed sheets changed two to three times per week due to sweating. She has neuropathy in her fingers and cannot assist with the task. The appellant has sufficiently demonstrated that more time is medically necessary for assistance with laundry, even though it is in her home, and she is approved for 90 minutes per week.

Therefore, the appeal is approved in part, denied in part, and dismissed in part.

As a result, in addition to the ADLs and IADLs not modified or addressed at the appeal, the appellant is approved for the following: 140 minutes per week for mobility (1 minute, 4 times per day, 7 days per week for mobility; 2 minutes, 2 times per day, 7 days per week to help with stairs in and out of her home; and 3 minutes, 4 times per day, 7 days per week for transfers); 280 minutes per week for bathing (30 minutes per day for a shower and 10 minutes per day for an evening quick wash); 133 minutes per week for grooming (5 minutes, 1 time per week for nail care; 2 minutes, 2 times per day, 7 days per week for oral care; 10 minutes, 1 time per day, 7 days per week for hair care; 3 minutes, 1 time per day, 3 days per week for shaving; and 3 minutes, 1 time per day, 7 days per week for lotion and deodorant application); 175 minutes per week for bladder care (5 minutes, 5 times per day, 7 days per week); and 90 minutes per week for laundry.

## **Order for SCO**

Approve the appellant for time for PCA assistance in accordance with this decision, effective as of the date of this decision until the appellant's next evaluation for PCA services.

## **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 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.

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Alexandra Shube  
Hearing Officer  
Board of Hearings

cc:

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