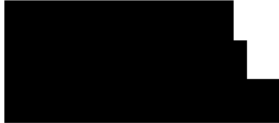


# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Dismissed in part, Approved in part, Denied in part	<b>Appeal Number:</b>	2306125
<b>Decision Date:</b>	10/12/2023	<b>Hearing Date:</b>	9/06/2023
<b>Hearing Officer:</b>	Patrick Grogan	<b>Record Open to:</b>	N/A

**Appearance for Appellant:**



**Appearance for MassHealth:**

Cassandra Horne, Appeals and Grievances Manager; Kaley Emery, Appeals Supervisor; Jeremiah Mancuso, R.N., Clinical Appeals Nurse; (all from Commonwealth Care Alliance, and all by telephone)


**Interpreter:**

N/A



*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>	Dismissed in part, Approved in part, Denied in part	<b>Issue:</b>	Modification of PCA Hours
<b>Decision Date:</b>	10/12/2023	<b>Hearing Date:</b>	9/06/2023
<b>MassHealth's Rep.:</b>	Cassandra Horne, Jeremiah Mancuso, Kaley Emery, CCA	<b>Appellant's Rep.:</b>	
<b>Hearing Location:</b>	Remote (Tel)	<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 notice dated July 12, 2023, Commonwealth Care Alliance (CCA), a MassHealth Independent Care Organization (ICO) and MassHealth's agent, denied the Appellant's level one appeal of a modification of a prior authorization (PA) request for personal care attendant (PCA) services, from the requested 56 hours per week of PCA services, to 39 hours of PCA services per week. (Exhibit 1).<sup>1</sup> The Appellant filed this external appeal with the Board of Hearings (BOH) in a timely manner on July 25, 2023. (130 CMR 610.015; Exhibit 2). Denial of a level one internal appeal by a managed care organization is a valid ground for appeal to the BOH (130 CMR 610.032(B)).

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<sup>1</sup> An Independent Care Organization is defined at 130 CMR 501.001 as "an organization with a comprehensive network of medical, behavioral-health care, and long-term services and supports providers that integrates all components of care, either directly or through subcontracts, and has contracted with the Executive Office of Health and Human Services (EOHHS) and the Centers for Medicare & Medicaid Services (CMS) and been designated as an ICO to provide services to dual eligible individuals under M.G.L. c. 118E. ICOs are responsible for providing enrollees with the full continuum of Medicare- and MassHealth-covered services."

## **Action Taken by MassHealth**

CCA denied the Appellant's level one internal appeal of modification of a request for PCA services from 56 hours per week to 39 hours per week.

## **Issue**

Did CCA correctly deny the Appellant's level one internal appeal of a modification of a request for PCA services from 56 hours per week to 39 hours per week?

## **Summary of Evidence**

The Appellant is a MassHealth member under the age of 65 who is legally blind and whose primary diagnoses includes carpal tunnel syndrome in both wrists, muscle weakness in the left arm, and chronic pain. (Exhibit 6, pg. 7-8) Secondary diagnoses include GERD (gastroesophageal reflux disease), Chronic iridocyclitis, right eye, other diagnoses include disorders of optic nerve, not elsewhere classified, bilateral, Endothelial corneal dystrophy, bilateral, Congenital glaucoma of both eyes, among others. (Exhibit 6, pg. 7-8) Commonwealth Care Alliance (CCA) reduced the Appellant's request 56 hours of Personal Care Attendant Services (PCA) to 39 hours of PCA services per week. (Testimony, Exhibit 6, pg.1) Multiple modifications were made, 10 in total: 3 increases of time to the hours requested for the Activities of Daily Living (ADLs) of Transfers, Ambulation, and Eating, 2 decreases of the time to the hours assigned for the ADLs of Medication Assistance and Health Maintenance Activities, 1 increase to the time requested for the Instrumental Activities of Daily Living (IADLs) of Meal Preparation, and 4 decreases of the time requested for the IADLs of Housekeeping, Shopping, Laundry, and Transportation (Medical). The parties reached resolution on all of the modifications for all of the 5 ADLs, the parties reached resolution on 1 of the modifications of the IADLs, but the parties were unable to reach resolution on 4 of the modifications for the remaining 4 IADLs.

Regarding the ADLs, the time requested for Transfers, 2 hours per week, the time was increased by CCA to 3 and ½ hours per week. This modification increases the requested time and was acceptable to the Appellant. This resolved this issue related to the instant appeal. (Testimony, Exhibit 6, pg.1, Exhibit 6, pg. 63)

Regarding the time requested for Mobility, 2 hours per week were requested by the Appellant's agency. CCA increased the time for Mobility to 3 and ½ hours per week. This modification increases the requested time and was acceptable to the Appellant. This resolved this issue related to the instant appeal. (Testimony, Exhibit 6, pg.1, Exhibit 6, pg. 63)

Regarding the time requested for Eating, no time had been allotted, however, CCA increased the time to 3 and ½ hours per week. This modification increases the requested time and was acceptable to the Appellant. This resolved this issue related to the instant appeal. (Testimony, Exhibit 6, pg.1, Exhibit 6, pg. 63)

Regarding the time requested for Medication Assistance, 4 hours per week had been requested, and CCA modified the requested time to 1 hour per week. The Appellant testified that she is prescribed multiple medicines, including multiple eye drops, taken throughout the day and due to her ailments, she exhibits difficulty with the self-administering of the medications at times. CCA testified that a PCA is not authorized to administer medications to a member. Notwithstanding this testimony, CCA considered the testimony of the Appellant and agreed to increase the time to 2 hours per week, which the Appellant stated was acceptable. This resolved this issue related to the instant appeal. (Testimony, Exhibit 6, pg.1, Exhibit 6, pg. 63)

Regarding the time requested for Health Maintenance Activities, 4 hours per week were requested, and CCA allotted no time. CCA initiated further clarification regarding this request, and learned the time was requested to educate the member on how to manage her conditions. CCA explained that this is not a task performed by a PCA and noted that this would be accomplished by a skilled nurse. CCA further noted that the Appellant receives 2 skilled nursing visits per month. Based upon the testimony of CCA, the Appellant agreed with this modification. This resolved this issue related to the instant appeal. (Testimony, Exhibit 6, pg.1, Exhibit 6, pg. 63)

Regarding the IADLS, the Appellant requested 7 hours for Meal Preparation per week. CCA had increased this time to 10 and ½ hours per week. This modification, which increases the time requested, was acceptable to the Appellant. This resolved this issue related to the instant appeal. (Testimony, Exhibit 6, pg.1, Exhibit 6, pg. 63)

Regarding Housekeeping, the Appellant had sought 10 hours per week. CCA modified the request to 1 hour per week. The Appellant testified that she has 2 bedrooms, a living room, a kitchen, and a bathroom within her apartment. The Appellant further testified that she likes a clean apartment, and that the apartment is mopped and cleaned daily. The Appellant testified that she is concerned with cockroach infestation if the trash isn't taken out regularly, as this has been a problem in the building. CCA asked additional clarifying questions, and ultimately indicated they would agree to increase to the maximum allotment of 1 and ½ hours per week, however, the Appellant stated this was not enough time. No resolution was reached regarding this modification, and the issue is further addressed in the Analysis and Conclusions of Law section of this decision supra. (Testimony, Exhibit 6, pg.1, Exhibit 6, pg. 63)

Regarding Shopping, the Appellant requested 6 hours, however CCA approved 1 and ½ hours. When asked about the requested additional time, the Appellant stated that she liked

her food fresh, and that shopping took 2-3 hours and was performed 3 times per week. No resolution was reached regarding this modification, and the issue is further addressed in the Analysis and Conclusions of Law section of this decision supra. (Testimony, Exhibit 6, pg.1, Exhibit 6, pg. 63)

Regarding Laundry, the Appellant sought 4 hours per week, however CCA allotted 2 hours per week. During testimony, the Appellant stated that the washing machines in her building are often broken, which requires a trip to the laundromat by bus. CCA explained the time of allotment does not include waiting while the laundry is being washed and dried, but rather covers actions such as transfer, adding detergent, and folding the clothes after drying. No resolution was reached regarding this modification, and the issue is further addressed in the Analysis and Conclusions of Law section of this decision supra. (Testimony, Exhibit 6, pg.1, Exhibit 6, pg. 63)

Regarding Transportation, the Appellant sought 10 hours per week, and CCA approved 2 hours per week. CCA explained that according to their review, the Appellant rarely had more than 1 medical appointment per week through the 6 months prior to the report issued by the Appeals and Grievances nurse (dated June 29, 2023). (Testimony, Exhibit 6, pg. 1) The Appellant explained that she had multiple doctors and sometimes that required multiple appointments in a given week. The Appellant stated that she required at least 5 hours for Transportation to medical appointments. No resolution was reached regarding this modification, and the issue is further addressed in the Analysis and Conclusions of Law section of this decision supra. (Testimony, Exhibit 6, pg.1, Exhibit 6, pg. 63-64)

## **Findings of Fact**

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

1. The Appellant is a MassHealth member under the age of 65 who is legally blind and whose primary diagnoses includes carpal tunnel syndrome in both wrists, muscle weakness in the left arm, and chronic pain. (Exhibit 6, pg. 7-8)
2. Secondary diagnoses include GERD (gastroesophageal reflux disease), Chronic iridocyclitis, right eye, other diagnoses include disorders of optic nerve, not elsewhere classified, bilateral, Endothelial corneal dystrophy, bilateral, Congenital glaucoma of both eyes, among others. (Exhibit 6, pg. 7-8)
3. Commonwealth Care Alliance (CCA) reduced the Appellant's request 56 hours of Personal Care Attendant Services (PCA) to 39 hours of PCA services per week. (Testimony, Exhibit 6, pg.1)

4. Multiple modifications were made to the requested PCA hours, 10 modifications in total. (Testimony, Exhibit 6, pg.1, Exhibit 6, pg. 63-64)
5. Regarding the time requested for Transfers, 2 hours per week, the time was increased by CCA to 3 and ½ hours per week. (Testimony, Exhibit 6, pg.1, Exhibit 6, pg. 63)
6. Regarding the time requested for Mobility, 2 hours per week were requested by the Appellant's agency. CCA increased the time for Mobility to 3 and ½ hours per week. (Testimony, Exhibit 6, pg.1, Exhibit 6, pg. 63)
7. Regarding the time requested for Eating, no time had been allotted, however, CCA increased the time to 3 and ½ hours per week. (Testimony, Exhibit 6, pg.1, Exhibit 6, pg. 63)
8. Regarding the time requested for Medication Assistance, 4 hours per week had been requested, and CCA modified the requested time to 1 hour per week. CCA considered the testimony of the Appellant and agreed to increase the time to 2 hours per week. (Testimony, Exhibit 6, pg.1, Exhibit 6, pg. 63)
9. Regarding the time requested for Health Maintenance Activities, 4 hours per week were requested, and CCA allotted no time. (Testimony, Exhibit 6, pg.1, Exhibit 6, pg. 63)
10. The Appellant requested 7 hours for Meal Preparation per week. CCA had increased this time to 10 and ½ hours per week (Testimony, Exhibit 6, pg.1, Exhibit 6, pg. 63)
11. Regarding Housekeeping, the Appellant had sought 10 hours per week. CCA modified the request to 1 hour per week. (Testimony, Exhibit 6, pg.1, Exhibit 6, pg. 63)
12. Regarding Shopping, the Appellant requested 6 hours, however CCA approved 1 and ½ hours. (Testimony, Exhibit 6, pg.1, Exhibit 6, pg. 63)
13. Regarding Laundry, the Appellant sought 4 hours per week, however CCA allotted 2 hours per week. (Testimony, Exhibit 6, pg.1, Exhibit 6, pg. 63)
14. Regarding Transportation, the Appellant sought 10 hours per week, and CCA approved 2 hours per week. (Testimony, Exhibit 6, pg.1, Exhibit 6, pg. 63-64)

## **Analysis and Conclusions of Law**

Pursuant to regulation 130 CMR 508.001, "MassHealth Member Participation in Managed Care:"

(A) Mandatory Enrollment with a MassHealth Managed Care Provider. MassHealth members who are younger than 65 years old must enroll in a MassHealth managed care provider available for their coverage type. Members described in 130 CMR 508.001(B) or who are excluded from participation in a MassHealth managed care provider pursuant to 130 CMR 508.002(A) are not required to enroll with a MassHealth managed care provider.

(B) Voluntary Enrollment in a MassHealth Managed Care Provider. The following MassHealth members who are younger than 65 years old may, but are not required to, enroll with a MassHealth managed care provider available for their coverage type: (1) MassHealth members who are receiving services from DCF or DYS; (2) MassHealth members who are enrolled in the Kaileigh Mulligan Program, described in 130 CMR 519.007(A): The Kaileigh Mulligan Program. Such members may choose to receive all services on a fee-for-service basis; (3) MassHealth members who are enrolled in a home- and community-based services waiver. Such members may choose to receive all services on a fee-for-service basis; or (4) MassHealth members who are receiving Title IV-E adoption assistance as described at 130 CMR 522.003: Adoption Assistance and Foster Care Maintenance. Such members may choose to receive all services on a fee-for-service basis.

(C) Senior Care Organizations (SCO). MassHealth members who are 65 years of age or older may enroll in a SCO pursuant to 130 CMR 508.008(A).

**(D) Integrated Care Organizations (ICO). Also referred to as "One Care plans." Members enrolled in an ICO (One Care plan) are participants in the Duals Demonstration, also known as "One Care." MassHealth members who are 21 through 64 years of age at time of enrollment may enroll in an ICO pursuant to 130 CMR 508.007(A).**

...

(Emphasis added)

Next, pursuant to MassHealth regulation 130 CMR 508.007 (C):

Obtaining Services When Enrolled in a ICO. When a member is enrolled in an ICO in accordance with the requirements under 130 CMR 508.007(A), the ICO will authorize, arrange, integrate, and coordinate the provision of all covered services for the member. Upon enrollment, the ICO is required to provide evidence of its coverage, the range of available covered services, what to do for emergency conditions and urgent care needs, and how to obtain access to specialty, behavioral health, and long-term services and supports.

MassHealth regulation 130 CMR 508.010, "Right to a Fair Hearing," states as follows:

Members are entitled to a fair hearing under 130 CMR 610.000: MassHealth: Fair Hearing Rules to appeal:

(A) the MassHealth agency's determination that the MassHealth member is required to enroll with a MassHealth managed care provider under 130 CMR 508.001;

**(B) a determination by the MassHealth behavioral health contractor, by one of the MCOs, Accountable Care Partnership Plans, or SCOs as further described in 130 CMR 610.032(B), if the member has exhausted all remedies available through the contractor's internal appeals process;**

(C) the MassHealth agency's disenrollment of a member under 130 CMR 508.003(D)(1), (D)(2)(a), or (D)(2)(b), or discharge of a member from a SCO under 130 CMR 508.008(E); or

(D) the MassHealth agency's determination that the requirements for a member transfer under 130 CMR 508.003(C)(3) have not been met.

(Emphasis added)

The Appellant exhausted the internal appeal process offered through his ICO, and thereafter, requested a fair hearing with BOH, to which he is entitled pursuant to the above regulations.

As MassHealth's agent, CCA is required to follow MassHealth laws and regulations pertaining to a member's care. Under the regulations pertaining to MassHealth ICOs, above, CCA is empowered to authorize, arrange, integrate, and coordinate the provision of all covered services for the Appellant.

MassHealth regulations about PCA services are found at 130 CMR 422.000 et seq. Regulation 130 CMR 422.402 defines a PCA as a person who is hired by the member or surrogate to provide PCA services, which are further defined as assistance with the activities of daily living (ADLs) and instrumental activities of daily living (IADLs) as described in 130 CMR 422.410.

Pursuant to 130 CMR 422.403(C), MassHealth covers PCA services when:

- (1) they are prescribed by a physician;
- (2) the member's disability is permanent or chronic in nature;
- (3) the member requires physical assistance with two or more of the following ADLs as defined in 130 CMR 422.410(A):
  - (a) mobility including transfers;
  - (b) medications;



- (c) bathing or grooming;
  - (d) dressing or undressing;
  - (e) range-of-motion exercises;
  - (f) eating; and
  - (g) toileting; and
- (4) MassHealth has determined that the PCA services are medically necessary and has granted a prior authorization for PCA services.

Activities of daily living are listed at 130 CMR 422.410(A) and include mobility, assistance with medications or other health-related needs, bathing/grooming, dressing, and undressing, passive range-of-motion exercises, eating, and toileting (including bowel care and bladder care). MassHealth pays for PCA time in physically assisting members to perform the aforementioned activities of daily living.

Instrumental activities of daily living are those activities described in 130 CMR 422.410(B) that are instrumental to the care of the member's health and are performed by a PCA, such as meal preparation and clean-up, housekeeping, laundry, shopping, maintenance of medical equipment, transportation to medical providers, and completion of paperwork required for the member to receive personal care services. MassHealth pays for PCA time in physically assisting members to perform the aforementioned instrumental activities of daily living.

Pursuant to 130 CMR 422.410 (C) When determining the number of hours of physical assistance that a member requires under 130 CMR 422.410 (B) for IADLS, the PCA agency must assume the following.

- 1) When a member is living with family members, the family members will provide assistance with most IADLS. For example, routine laundry, housekeeping, shopping and meal preparation and clean-up should include those needs of the member.
- 2) When a member is living with one or more other members who are authorized for MassHealth PCA services, PCA time for homemaking tasks (such as shopping, housekeeping, laundry, and meal preparation and clean-up) must be calculated on a shared basis.
- 3) The MassHealth agency will consider individual circumstances when determining the number of hours of physical assistance that a member requires for IADLS.

Pursuant to 130 CMR 450.204(A), MassHealth will not pay a provider for services that are not medically necessary; and may impose sanctions on a provider for providing or prescribing a service or for admitting a member to an inpatient facility where such service or admission is not medically necessary. 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 MassHealth. Services that are less costly to MassHealth include, but are not limited to, health care reasonably known by the provider, or identified by MassHealth 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.

Next, pursuant to 130 CMR 422.412, "Noncovered Services:"

MassHealth does not cover any of the following as part of the PCA program or the transitional living program:

- (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;
- (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; or
- (G) surrogates, as defined in 130 CMR 422.402; or
- (H) PCA services provided to a member without the use of EVV as requires by the MassHealth agency.

The Appellant has the burden "to demonstrate the invalidity of the administrative determination." Andrews v. Division of Medical Assistance, 68 Mass. App. Ct. 228. See also 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).

Multiple modifications were made, 10 in total: 3 increases of time to the hours requested for the Activities of Daily Living (ADLs) of Transfers, Ambulation, and Eating, 2 decreases of the time to the hours assigned for the ADLs of Medication Assistance and Health Maintenance Activities, 1 increase to the time requested for the Instrumental Activities of Daily Living (IADLs) of Meal Preparation, and 4 decreases of the time requested for the IADLs of Housekeeping, Shopping, Laundry, and Transportation. (Medical) The parties reached resolution on all of the modifications for all of the 5 ADLs, the parties reached resolution on 1 of the modifications of the IADLs, but the parties were unable to reach resolution on 4 of the modifications for the remaining 4 IADLs.

Regarding the time requested for Transfers, 2 hours per week, the time was increased by CCA to 3 and ½ hours per week. This modification increases the requested time and was acceptable to the Appellant. (Testimony, Exhibit 6, pg.1, Exhibit 6, pg. 63). Since the parties reached resolution on this appeal issued, the appeal of the modification for Transfers is hereby DISMISSED. (130 CMR 610.051(B)).

Regarding the time requested for Mobility, 2 hours per week were requested by the Appellant's agency. CCA increased the time for Mobility to 3 and ½ hours per week. This modification increases the requested time and was acceptable to the Appellant. (Testimony, Exhibit 6, pg.1, Exhibit 6, pg. 63) Since the parties reached resolution on this appeal issue, the appeal of the modification for Transfers is hereby DISMISSED. (130 CMR 610.051(B)).

Regarding the time requested for Eating, no time had been allotted, however, CCA increased the time to 3 and ½ hours per week. This modification increases the requested time and was acceptable to the Appellant. (Testimony, Exhibit 6, pg.1, Exhibit 6, pg. 63) Since the parties reached resolution on this appeal issue, the appeal of the modification for Transfers is hereby DISMISSED. (130 CMR 610.051(B)).

Regarding the time requested for Medication Assistance, 4 hours per week had been requested, and CCA modified the requested time to 1 hour per week. The Appellant testified that she is prescribed multiple medicines, including multiple eye drops, taken throughout the day and due to her ailments, she exhibits difficulty with the self-administering of the medications at times. CCA testified that a PCA is not authorized to administer medications to a member. Notwithstanding this testimony, CCA considered the testimony of the Appellant and agreed to increase the time to 2 hours per week, which the Appellant stated was acceptable.

(Testimony, Exhibit 6, pg.1, Exhibit 6, pg. 63) Since the parties reached resolution on this appeal issue, the appeal of the modification for Transfers is hereby DISMISSED. (130 CMR 610.051(B)).

Regarding the time requested for Health Maintenance Activities, 4 hours per week were requested, and CCA allotted no time. CCA initiated further clarification regarding this request, and learned the time was requested to educate the member on how to manage her conditions. CCA explained that this is not a task performed by a PCA and noted that this would be accomplished by a skilled nurse. CCA further noted that the Appellant receives 2 skilled nursing visits per month. Based upon the testimony of CCA, the Appellant agreed with this modification. (Testimony, Exhibit 6, pg.1, Exhibit 6, pg. 63) Since the parties reached resolution on this appeal issue, the appeal of the modification for Transfers is hereby DISMISSED. (130 CMR 610.051(B)).

Regarding the IADLS, the Appellant requested 7 hours for Meal Preparation per week. CCA had increased this time to 10 and ½ hours per week. This modification, which increases the time requested, was acceptable to the Appellant. T (Testimony, Exhibit 6, pg.1, Exhibit 6, pg. 63) Since the parties reached resolution on this appeal issued the appeal of the modification for Transfers is hereby DISMISSED. (130 CMR 610.051(B)).

Regarding Housekeeping, the Appellant had sought 10 hours per week. CCA modified the request to 1 hour per week. The Appellant testified that she has 2 bedrooms, a living room, a kitchen, and a bathroom within her apartment. The Appellant further testified that she likes a clean apartment, and that the apartment is mopped and cleaned daily. The Appellant testified that she is concerned with cockroach infestation if the trash isn't taken out regularly, as this has been a problem in the building. CCA asked additional clarifying questions, and ultimately indicated they would agree to increase to the maximum allotment of 1 and ½ hours per week, however, the Appellant stated this was not enough time. (Testimony, Exhibit 6, pg.1, Exhibit 6, pg. 63) The parties were unable to reach an agreement related to this modification. After review of the evidence presented at Hearing, I find that the Appellant has met her burden to show the invalidity, in part, of CCA's determination. The Appellant's testimony related to the issues within the building provide a preponderance of evidence that the Appellant requires additional time for this task beyond the time allotted by CCA. However, the Appellant's testimony does not support, by a preponderance of evidence, the total time requested by the Appellant. Therefore, regarding Housekeeping, this appeal is APPROVED, in so much as CCA shall allot 3 hours per week for Housekeeping.

Regarding Shopping, the Appellant requested 6 hours, however CCA approved 1 and ½ hours. When asked about the requested additional time, the Appellant stated that she liked her food fresh, and that shopping took 2-3 hours and was performed 3 times per week (Testimony, Exhibit 6, pg.1, Exhibit 6, pg. 63) The parties were unable to reach an agreement related to this modification. After review of the evidence presented at Hearing, I find that the Appellant has met her burden to show the invalidity, in part, of CCA's determination. The

Appellant's testimony related to preferring fresh food did not meet her burden, by a preponderance of evidence, regarding the frequency of shopping visits. However the testimony regarding the time required to perform shopping was persuasive, in part. CCA had indicated that there are multiple shopping facilities within proximity of the Appellant's residence. The Appellant testified regarding her medications prescribed as well as her food needs. This testimony provides a preponderance of evidence that the Appellant requires additional time for this task beyond the time allotted by CCA. However, the Appellant's testimony does not support, by a preponderance of evidence, the total time requested by the Appellant. Therefore, regarding Shopping, this appeal is APPROVED, in so much as CCA shall allot 3 hours per week for Shopping.

Regarding Laundry, the Appellant sought 4 hours per week, however CCA allotted 2 hours per week. During testimony, the Appellant stated that the washing machines in her building are often broken, which requires a trip to the laundromat by bus. CCA explained the time of allotment does not include waiting while the laundry is being washed and dried, but rather covers actions such as transfer, adding detergent, and folding the clothes after drying. (Testimony, Exhibit 6, pg.1, Exhibit 6, pg. 63) The parties were unable to reach an agreement related to this modification. After review of the evidence presented at Hearing, I find that the Appellant has met her burden to show the invalidity, in part, of CCA's determination. The Appellant's testimony related to the issues within the building regarding the washing machines often being broken requiring trips to a laundromat provide a preponderance of evidence that the Appellant requires additional time for this task beyond the time allotted by CCA. However, CCA's testimony regarding the allotment excluding wait time must be considered. The Appellant's testimony does not support, by a preponderance of evidence, the total time requested by the Appellant. Therefore, regarding Laundry, this appeal is APPROVED, in so much as CCA shall allot 3 hours per week for Laundry.

Regarding Transportation, the Appellant sought 10 hours per week, and CCA approved 2 hours per week. CCA explained that according to their review, the Appellant rarely had more than 1 medical appointment per week through the 6 months prior to the report issued by the Appeals and Grievances nurse (dated June 29, 2023). (Testimony, Exhibit 6, pg. 1) The Appellant explained that she had multiple doctors and sometimes that required multiple appointments in a given week. The Appellant stated that she required at least 5 hours for Transportation to medical appointments. (Testimony, Exhibit 6, pg.1, Exhibit 6, pg. 63-64) After review of the evidence presented at Hearing, I find that the Appellant has not met her burden to show the invalidity of CCA's determination related to this modification. CCA's testimony that according to their review, the Appellant rarely had more than 1 medical appointment per week through the 6 months prior to the report issued by the Appeals and Grievances nurse (dated June 29, 2023) is persuasive. The Appellant's testimony does not support, by a preponderance of evidence, the time requested by the Appellant. Therefore, regarding Transportation, this appeal of the modification is DENIED.

## Order for MassHealth

Regarding the 10 modifications subject to the notice dated July 12, 2023, Commonwealth Care Alliance (CCA) shall implement the following allotments:

- 1) Transfers: 3 and ½ hours per week as modified by CCA and agreed to by the Appellant
- 2) Mobility: 3 and ½ hours per week as modified by CCA and agreed to by the Appellant
- 3) Eating: 3 and ½ hours per week as modified by CCA and agreed to by the Appellant
- 4) Medication Assistance: 2 hours per week as modified by CCA at the Hearing and agreed to by the Appellant
- 5) Health Maintenance Activities: 0 hours per week as modified by CCA and agreed to by the Appellant
- 6) Meal Preparation: 10 and ½ hours per week as modified by CCA and agreed to by the Appellant
- 7) Housekeeping: 3 hours per week shall be allotted by CCA to the Appellant
- 8) Shopping: 3 hours per week shall be allotted by CCA to the Appellant
- 9) Laundry: 3 hours per week shall be allotted by CCA to the Appellant
- 10) Transportation: 2 hours per week as modified by CCA

## 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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Patrick Grogan

Hearing Officer  
Board of Hearings

cc:

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

[REDACTED]