

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved in part; Denied in part; Dismissed in part	Appeal Number:	2403551
Decision Date:	08/09/2024	Hearing Date:	05/06/2024
Hearing Officer:	Mariah Burns	Record Open to:	06/17/2024

Appearances for Appellant:




Appearances for Commonwealth Care Alliance:

Cassandra Horne, Appeals Grievances Manager; Jeremiah Mancuso, Clinical RN Appeals and Grievance Manager; Hannah Guskie, OT, PCA 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

Appeal Decision:	Approved in Part; Denied in Part; Dismissed in Part	Issue:	Senior Care Organization; Prior Authorization, Personal Care Attendant Services
Decision Date:	08/09/2024	Hearing Date:	05/06/2024
MassHealth's Reps.:	Cassandra Horne, et. al.	Appellant's Reps.:	
Hearing Location:	Remote	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 February 24, 2024, Commonwealth Care Alliance (CCA), a MassHealth Senior Care Organization (SCO), denied the appellant's Level 1 Appeal of its January 23, 2024, determination of 27 hours day/evening personal care attendant (PCA) services and 14 hours a week for a nighttime attendant (NTA). *See* 130 CMR 422.000, *et, seq.*; 450.204; Exhibit 1. The appellant filed this appeal to the Board of Hearings (BOH) in a timely manner on March 7, 2024. *See* 130 CMR 610.015(B) and Exhibit 2. A SCO's denial of an internal appeal of a determination of PCA hours is valid grounds for appeal to BOH. *See* 130 CMR 610.032(B).

Action Taken by Commonwealth Care Alliance

CCA denied the appellant's Level 1 appeal of its determination of 27 hours day/evening personal care attendant (PCA) services and 14 hours a week for a nighttime attendant.

Issue

Whether CCA was correct pursuant to 130 CMR 422.000 *et seq.* and 130 CMR 450.204(A), and the CCA member handbook, to deny the appellant's internal appeal of its determination of PCA hours.

Summary of Evidence

The appellant is a MassHealth member over the age of 65 currently enrolled in CCA's Senior Care Organization (SCO) Program. She and her attorney appeared telephonically at the hearing. CCA was represented telephonically by three members of its appeals team. The following is a summary of the testimony given and documentary evidence provided at hearing and during the record open period¹:

Members of CCA's SCO Program who submit a request for prior authorization for PCA hours undergo a complete evaluation by the SCO PCA team. CCA sends a nurse to the member's home to conduct observations of the member's needs, which then get sent to the member's personal care management (PCM) agency. The PCM uses that evaluation to submit a prior authorization request to CCA, which is reviewed by CCA's Utilization Management Team. The Utilization Management Team uses MassHealth guidelines, including the Time-For-Task Tool found at Exhibit 7 at 37-48².

Prior to joining CCA, the appellant underwent a traditional MassHealth PCA evaluation in August 2022. At that time, MassHealth approved the appellant for 40.5 hours a week in day/evening PCA services and 14 hours for an NTA. After a January 4, 2024 virtual evaluation, the CCA nurse reviewer recommended 29.5 hours a week in day/evening PCA services and 14 hours per week in NTA services. After occupational therapist review, CCA's Utilization Management (UM) Team reduced that amount and approved 27 hours per week in day/evening PCA services and 14 hours per week in NTA services, effective February 4, 2024. CCA's UM reduced the recommended time for meal preparation from 665 minutes per week to 525 minutes per week, and reduced the recommended time for special needs/durable medical equipment (DME) cleaning from 35 minutes per week to 15 minutes per week, for a total reduction of 2.6 hours. CCA noted that the total PCA/NTA time could be combined for a total of 41 hours per week in PCA services. Exhibit 7 at 18. The appellant filed a timely appeal of that determination and exhausted her internal CCA appellant remedies. Prior to the hearing, CCA increased the approved PCA time to 28 hours per week in day/evening services by increasing the time for PCA assistance with bathing to 280 minutes per

¹ During the record open period, the appellant provided a supplemental memorandum adjusting her requests for several tasks along with a letter from her physician referenced throughout this decision. Exhibit 8. CCA did not provide a response to the appellant's record open submission.

² This decision adopts the Time-For-Task Guidelines found at Exhibit 7 at 37-48 as factually informative, as it is relied on by both parties in their respective arguments.

week; CCA continued to approve 14 hours per week for NTA assistance for a total time approved of 42 hours per week in PCA services. Exhibit 7. During the hearing before BOH, agreements were reached for the following tasks:

- **Bathing:** parties agree to 210 minutes per week for showering, 105 minutes per week for PM wash, and 36 minutes per week for hair washing;
- **Grooming:** parties agree to 15 minutes per week for nail care;
- **Toileting:** parties agree to 175 minutes per week for bladder care, 168 minutes per week for bowel care;
- **Medication Assistance with Prefill:** parties agree to 20 minutes per week;
- **PROM:** parties agree to 0 minutes per week for passive range of motion exercises;
- **Laundry:** parties agree to 90 minutes per week for laundry.

Remaining at issue are the following tasks: Mobility (ambulation), Mobility (transfers), Grooming (hair care), Grooming (lotion), Toileting Transfers; Medication Assistance, Meal Preparation (snacks), Shopping, Housekeeping, Special Needs (equipment cleaning), and Transportation to Medical Appointments. The following chart details the modifications made by CCA to those areas and the appellant's requested time:

Task	2022 MH Eval	1/2024 CCA Eval	Appellant's Request
Ambulation	350 min/week	0 min/week	98 min/week
Transfers	0 min/week	0 min/week	70 min/week
Hair Care	14 min/week	28 min/week	70 min/week
Lotion	21 min/week	28 min/week	105 min/week
Toileting Transfers	0 min/week	0 min/week	210 min/week
Medication Assistance	42 min/week (3 instances per day)	42 min/week (two instances per day)	63 min/week (three instances per day)
Meal Prep (snacks)	0 min/week for snacks	0 min/week for snacks	35 min/week for snacks
Shopping	90 min/week	90 min/week	120 min/week
Housekeeping	90 min/week	90 min/week	156 min/week
Equipment Cleaning	0 min/week	35 min/week	70 min/week
MD Transport	0 min/week	7 min/week	15 min/week

There is no dispute that the appellant suffers from a host of diagnoses, including polyneuropathy, fibromyalgia, Raynaud's disease, morbid obesity, osteoarthritis, and irritable bowel syndrome.³ The appellant's physician also reports that the appellant suffers from bursitis in her knee and cellulitis. Exhibit 8 at 11. The physician notes that each of these conditions significantly impacts the appellant's mobility, stability, balance, and general ability to perform daily activities of living

³ I note that this is not an exhaustive list of the appellant's health conditions.

without assistance. Exhibit 8 at 11. The appellant also has a series of mental health diagnoses that require emotional support and care.

The appellant argues that, on the day of her January 2024 CCA evaluation, she was having a rare, good day that did not accurately reflect her daily needs. She also reported that she felt the need to show off for the CCA evaluator. The appellant suffered a fall in [REDACTED], and was hospitalized and then admitted to a rehab facility until the end of [REDACTED] of that year. The appellant and her physician both report that her fall history has contributed to a deterioration of her condition overall.

The appellant and CCA provided the following evidence regarding each remaining task at issue:

Mobility (Ambulation)

The appellant requested 7 minutes, twice a day, or a total of 98 minutes a week, for PCA assistance with ambulation, and CCA approved no time for assistance with this task. The appellant testified that she has a long, L-shaped hallway in her home and requires physical support around the waist while walking. She also reported that her emerging condition of bursitis was not considered at the time that the evaluation took place. She stated that she cannot feel her legs or her feet touching the ground and that it is very difficult for her to stand for any length of time or move without help. The appellant's physician provided a letter that states that the bursitis causes lower extremity weakness that affects the appellant's stability and balance and that any mobility "without the use of her PCA would be ill-advised," as she is at increased risk of falls and hospitalization. Exhibit 8 at 11. CCA reported that its nurse evaluator observed the appellant to be independent with ambulation with the use of a walker, and that evidence of the appellant's bursitis diagnosis would need to be provided to approve the requested hours.⁴

Mobility (Transfers)

The appellant requested 5 minutes, twice a day, or 70 minutes a week for PCA assistance with transfers into and out of bed, and CCA approved no time for assistance with this task. The appellant's physician specifically stated that the appellant's "ability to safely transfer in and out of bed unsupported affects her safety and increases her risk in falls" and advises use of a PCA for transfers. Exhibit 8 at 11.

Grooming (Hair Styling)

The appellant requested 10 minutes a day for PCA assistance with hair care, and CCA approved 4 minutes a day for assistance with this task. The appellant stated that she has very fine, thinning,

⁴ The letter from the appellant's physician was not provided until the record-open period. CCA provided no response to the letter.

shoulder-length hair that can get tangled and knotted easily due to her frequent stays in bed. She reported that her PCA spends approximately 10 minutes per day brushing, de-tangling, and styling her hair to avoid such knots. CCA argued that, because the time for PCA assistance with hair care had already been increased from the previous evaluation, it would not increase it further.

Grooming (Lotion)

The appellant requested 15 minutes a day for PCA assistance with lotion application and CCA approved 4 minutes a day for assistance with this task. The appellant and her physician reported that she has numerous skin conditions that lead to dry, flaky skin requiring daily application of lotion. Her physician specifically stated that her delicate skin and recurrent cellulitis, combined with her inability to roll herself over, makes lotion application take particularly long for the appellant. Exhibit 8 at 11. CCA argued that the time approved was an increase from the appellant's previous evaluation and it would not increase any further.

Toileting Transfers

The appellant requested 6 minutes, 5 times per day, or a total of 210 minutes a week, for PCA assistance with transfers to the bathroom and onto and off of the toilet, and CCA approved no time for assistance with this task. CCA relied on its arguments for mobility (transfers) in arguing that the appellant does not require additional time for transfers to and from the toilet. The appellant has been approved for 5 minutes, 5 times a day for PCA assistance with bladder care, which includes assistance with hygiene, and clothing management. The appellant was also approved 24 minutes a day for PCA assistance with bowel care. The appellant reported that she uses the toilet approximately 5 times per day, and that the transfers to and from the bathroom and on and off the toilet take approximately 6 minutes in total.

Medication Administration

CCA approved 3 minutes, twice a day, or a total of 42 minutes a week for PCA assistance with administration of medication. The parties agreed that each instance of medication administration takes 3 minutes. The appellant stated, and her physician confirmed, that she takes several of her medications 3 times per day. Exhibit 8 at 11. CCA reported that it only had documentation of medication being taken 2 times per day.

Meal Preparation (Snacks)

The appellant requested 5 minutes per day for snack preparation. CCA denied this request because the appellant was observed to be able to use the microwave on her own. The appellant stated that although she may be able to push buttons on a microwave, she is otherwise unable to cut, plate, and carry the snack. CCA approved maximum assistance for meal preparation for breakfast, lunch and dinner.

Shopping

The appellant requested 120 minutes per week for PCA assistance with shopping and CCA approved 90 minutes per week. The appellant stated that her PCA shops for her at four different stores every week, and that the stores range from a 4 minute drive each way to 17 minutes. She reports that it takes her PCA roughly two hours a week to do all of her shopping. CCA argued that 90 minutes is the longest amount of time contemplated in the Time-For-Task tool and that it would be rare to approve time that exceeds that length.

Housekeeping

The appellant requested 156 minutes per week for PCA assistance with housekeeping and CCA approved 90 minutes per week. The appellant reported that, among her housekeeping chores, none of which she is able to perform, her PCA spends approximately 10 minutes each day taking out a higher-than typical amount of trash due to increased incontinence supplies. She stated that her skin conditions require 8 minutes daily vacuuming of her bedroom, as she sheds and flakes skin throughout the room. She also stated that her PCA spends 30 minutes a week cleaning her bathroom, but also spends time cleaning the bathroom daily due to her IBS accidents and messes. In total, she reported that her PCA spends 156 hours cleaning each week. CCA similarly argued that 90 minutes is the longest amount of time contemplated in the Time-For-Task tool and that it would be rare to approve time that exceeds that length.

Special Needs (Equipment Cleaning)

The appellant requested 70 minutes per week for PCA assistance with cleaning her medical equipment and CCA approved 35 minutes per week. The appellant argued that her commode requires cleaning daily and that she has a walker and "other durable medical equipment" (See Exhibit 8 at 8) that is "cleaned regularly." She stated that it takes approximately 10 minutes per day to clean her equipment. One CCA representative testified that, in his experience, it takes approximately 5 minutes to clean a commode, and agreed that the appellant does appear to use the commode daily.

Transportation to Medical Appointments

The appellant requested 15 minutes per week for PCA assistance with medical appointments and CCA approved 7 minutes per week. CCA determined that the appellant has 8 medical appointments a year and approved 25 minutes travel time and 20 minutes transfer time for each appointment for a total of 360 minutes a year, or an average of 7 minutes per week. The appellant reported that she agrees that she attends 8 medical appointments per year, but stated that her doctors are located approximately 30 minutes away from her home each way. Her PCA provides emotional support during the transfers in and out of her apartment, follows her ambulance to the

appointment, and then provides emotional support during the appointment. She also stated that the transfers take about 20 minutes each way, for a total of 40 minutes per appointment. One CCA representative testified, and the appellant agreed, that the physical labor and hands-on assistance during these transfers is conducted by a team of EMTs. That representative reported that he used to be an EMT himself and testified that the EMTs would not allow any other individual to physically assist with the transfers. CCA noted that the PCA's emotional support cannot be discounted and the 20 minutes previously approved is sufficient for such assistance.

Findings of Fact

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

1. The appellant is a MassHealth member over the age of 65 who is currently enrolled a CCA SCO. Testimony, Exhibit 4.
2. The appellant meets the clinical requirements to qualify for coverage of PCA services. Testimony, Exhibit 7 generally.
3. In 2022, prior to joining CCA, the appellant received 54.5 total PCA hours (40.5 day/evening hours and 14 NTA hours) from MassHealth, including mobility time allotted for both ambulation and transfers. Testimony, Exhibit 7 at 136, 150.
4. The appellant suffers from a host of physical and mental health diagnoses, including, but not limited to, polyneuropathy, fibromyalgia, Raynaud's disease, morbid obesity, osteoarthritis, and irritable bowel syndrome, bursitis, and cellulitis. Testimony, Exhibit 7 at 70, Exhibit 8 at 11. These diagnoses affect the appellant's balance, stability, and general mobility as they relate to her ability to perform nearly all of her activities of daily living. *Id.* The appellant suffered a fall and had a subsequent hospitalization and rehab admission in [REDACTED] she has seen a decline in her functionality since being discharged. *Id.*
5. On January 4, 2024, a CCA nurse conducted a virtual evaluation of the appellant's PCA needs. Exhibit 7 at 99. During that evaluation, the evaluator concluded that the appellant was independent with her mobility with the assistance of a walker. *Id.* at 99-118. The evaluation led to the CCA nurse's January 23, 2024 recommendation of 43.5 hours per week of PCA assistance (29.5 day/evening hours and 14 hours NTA). *Id.* at 117.
6. After occupational therapist review, CCA's Utilization Management Team reduced that amount and approved 27 hours per week in day/evening PCA services and 14 hours per week in NTA services, effective February 4, 2024; CCA's UM reduced the recommended

time for meal preparation from 665 minutes per week to 525 minutes per week, and reduced the recommended time for special needs/DME cleaning from 35 minutes per week to 15 minutes per week, for a total reduction of 2.6 hours.

7. Prior to the hearing, CCA increased the approved PCA time to 28 hours per week in day/evening services by increasing the time for PCA assistance with bathing to 280 minutes per week; CCA continued to approve 14 hours per week for NTA assistance for a total time approved of 42 hours per week in PCA services.
8. After exhausting her internal appeal, and receiving a final determination on February 28, 2024, the appellant filed a timely request for fair hearing to the BOH. Exhibit 2.
9. At hearing and during the record open period, the parties agreed to the following modifications to the appellant's PCA hours:
 - **Bathing:** parties agree to 210 minutes per week for showering, 105 minutes per week for PM wash, and 36 minutes per week for hair washing;
 - **Grooming:** parties agree to 15 minutes per week for nail care;
 - **Toileting:** parties agree to 175 minutes per week for bladder care, 168 minutes per week for bowel care;
 - **Medication Assistance with Prefill:** parties agree to 20 minutes per week;
 - **PROM:** parties agree to 0 minutes per week for passive range of motion exercises;
 - **Laundry:** parties agree to 90 minutes per week for laundry. Testimony, Exhibit 8.
10. Remaining at issue are the following tasks: Mobility (ambulation), Mobility (transfers), Grooming (hair care), Grooming (lotion), Toileting Transfers; Medication Assistance, Meal Preparation (snacks), Shopping, Housekeeping, Special Needs (equipment cleaning), and Transportation to Medical Appointments.
11. The appellant requires assistance with ambulation and transfers both independent from and related to toileting due to her bursitis and other diagnoses. Testimony, Exhibit 8 at 11. Failure to provide her with such assistance puts her at increased risk for falls, hospitalization, and/or nursing home admission. *Id.*
12. The appellant has fine, thinning shoulder length hair that frequently knots due to her long stays in bed. Testimony.
13. The appellant's cellulitis and other skin conditions require assistance with a complete daily application of lotion to her body. Testimony, Exhibit 8 at 11. This takes the PCA roughly 15 minutes, largely due to the appellant's inability to roll herself over. *Id.*
14. The appellant requires assistance with medication administration three times a day. Exhibit 8 at 11.

15. The appellant requires maximum assistance with snack preparation, which takes her PCA roughly 5 minutes per day. Testimony, Exhibit 8 at 8.
16. 90 minutes is generally the maximum amount of time CCA and MassHealth will approve for assistance with shopping and housekeeping unless the appellant has unique and specific needs for additional time beyond that. Testimony, Exhibit 7 at 34-44.
17. The appellant uses her commode daily and requires assistance with daily cleaning of that commode and her walker. Testimony, Exhibit 8 at 8.
18. The appellant visits the doctor 8 times per year. Testimony, Exhibit 8 at 9. The appellant is transferred out of her home and into an ambulance by EMTs. *Id.* The appellant's PCA provides emotional support during that time, but no hands-on assistance. *Id.*

Analysis and Conclusions of Law

MassHealth has contracted with individual private insurance companies, referred to as managed care organizations (MCOs), to deliver care to relevant members under the regulations. *See* 130 CMR 508.000 et. al. One such type of MCO is a senior care organization (SCO), designed to manage the care of certain MassHealth members over the age of 65. Massachusetts law defines an SCO as "a comprehensive network of medical, health care, and social service providers that integrates all components of care, either directly or through subcontracts." M.G.L. ch. 118E § 9D(a). Further, "SCOs will be responsible for providing enrollees with the full continuum of Medicare and MassHealth covered services." The MassHealth regulations establish the member selection process for SCOs at 130 CMR 508.008.

An SCO has specific statutory and regulatory requirements by which it must abide regarding the scope of its coverage and its internal appeal process. "[T]he amount, duration, and scope of Medicaid-covered services shall be at a minimum no more restrictive than the scope of services provided under MassHealth standard coverage." M.G.L. ch. 118E § 9D(d). The SCO must provide everything under the MassHealth regulations and may have services or coverage that range beyond the scope of those provided by MassHealth.

MassHealth regulations apply to SCOs and provide that "[m]embers are entitled to a fair hearing under 130 C.M.R. 610.00: MassHealth Fair Hearing Rules to appeal...a determination by...one of the...SCOs...if the member has exhausted all remedies available through the contractor's internal appeals process." 130 C.M.R. 508.010(B). This obligates an SCO to follow the fair hearing rules when defending decisions before the Board of Hearings.

Typically, '[a]ll medical services to members enrolled in an MCO...are subject to the prior

authorization and referral requirements of the MCO.” 130 C.M.R. 508.004(2). In this case, the CCA representatives testified, and their submitted documentation confirmed, that they rely upon the MassHealth guidelines in reviewing prior authorization requests for PCA services. See Exhibit 6 at 50-56. MassHealth will authorize coverage of PCA services when:

- (1) The PCA services are authorized for the member in accordance with 130 CMR 422.416.
- (2) The member's disability is permanent or chronic in nature and impairs the member's functional ability to perform [Activities of Daily Living (ADLs)] and [Instrumental Activities of Daily Living (IADLs)] without physical assistance.⁵
- (3) The member, as determined by the PCM agency, requires physical assistance with two or more of the ADLs as defined in 130 CMR 422.410(A).
- (4) The MassHealth agency has determined that the PCA services are medically necessary.

130 CMR 422.403 (C).

It is undisputed that the appellant is a MassHealth member eligible to receive PCA services. However, in addition to meeting those categorical criteria, all PCA services must be medically necessary for prior authorization to be approved. A service is determined to be 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...

...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.

⁵ ADLs include assistance with mobility, medications, bathing or grooming, dressing or undressing, passive range of motion, and toileting, while IADLs include household services (such as laundry, shopping, and housekeeping), meal preparation and clean-up, transportation, and other special needs codified in the regulations. 130 CMR 422.410(A) and (B).

130 CMR 450.204(A)-(B).

CCA relies on the Time for Task tool in evaluating a member's prior authorization request for PCA services and how much time to allow for each requested task. See Exhibit 6 at 37-48. The appellant has the burden "to demonstrate the invalidity of the administrative determination." *Andrews v. Division of Medical Assistance*, 68 Mass. App. Ct. 228 (2007).

At hearing, the appellant and CCA agreed to the following modifications of PCA hours:

19. **Bathing:** parties agree to 210 minutes per week for showering, 105 minutes per week for PM wash, and 36 minutes per week for hair washing;
20. **Grooming:** parties agree to 15 minutes per week for nail care;
21. **Toileting:** parties agree to 175 minutes per week for bladder care, 168 minutes per week for bowel care;
22. **Medication Assistance with Prefill:** parties agree to 20 minutes per week;
23. **PROM:** parties agree to 0 minutes per week for passive range of motion exercises;
24. **Laundry:** parties agree to 90 minutes per week for laundry.

As the discussed agreements resolve the appeal regarding those areas, the appeal is hereby DISMISSED with respect to those tasks. Remaining at issue are the following areas: Mobility (ambulation), Mobility (transfers), Grooming (hair care), Grooming (lotion), Toileting Transfers; Medication Assistance, Meal Preparation (snacks), Shopping, Housekeeping, Special Needs (equipment cleaning), and Transportation to Medical Appointments.

Before analyzing each individual task, I note that on several occasions CCA argued that certain time for tasks could not be increased because the amount requested exceeds what the appellant has received in the past. This is particularly significant because CCA's prior authorization process for SCO members differs from that of MassHealth's in that it is CCA who is conducting the evaluation and recommending the allotted time for each task, not the appellant through their PCM. CCA argues that if a member disagrees with time approved, the member must submit an adjustment request, which will then be evaluated by another CCA medical professional. This argument is not supported by regulation. The appellant has appealed the determination made by CCA, not a PCM agency, and therefore she can challenge any of the time determined for PCA assistance with each task on the evaluation, and does not need to submit a request for increase. CCA's argument that the appellant cannot request an increase from what she has received in the past is unsupported. The appellant can challenge any determination of PCA time made by CCA.

(1) Mobility (Ambulation)

In the area of ambulation, the appellant testified that, among her many diagnoses, her emerging bursitis makes it very difficult for her to get around her apartment safely. Her primary care physician confirmed the bursitis diagnosis and reported that she is at risk of falls and requires

assistance with her mobility. The CCA representatives stated that they would need proof of the bursitis diagnosis to approve assistance with mobility. The appellant's physician provided a letter that states that the bursitis causes lower extremity weakness that affects the appellant's stability and balance and that any mobility "without the use of her PCA would be ill-advised," as she is at increased risk of falls and hospitalization. Exhibit 8 at 11. I find that the appellant has sufficiently demonstrated that she requires PCA assistance with ambulation. Although her request of 7 minutes, 2 times per day, 7 days per week slightly exceeds the Time-For-Task guidelines (see Exhibit 7 at 35), I find that she has demonstrated that her circumstances require her to take more time than a typical individual with her needs. The appellant shall therefore be approved for **98 minutes per week for assistance with mobility (ambulation)**.

(2) Mobility (Transfers)

CCA argues that its evaluator found that the appellant is completely independent with transfers, and thus should not be entitled to PCA assistance with that task. The appellant's primary care physician provided evidence that challenges that finding. The appellant's physician specifically stated that the appellant's "ability to safely transfer in and out of bed unsupported affects her safety and increases her risk in falls" and advises use of a PCA for transfers. Exhibit 8 at 11. It's also notable that the appellant was previously given time for transfers, and the evidence suggests that the appellant's condition has worsened, not improved. The appellant's request of 5 minutes, 2 times per day, 7 days per week falls within the Time-For-Task guidelines (see Exhibit 7 at 34) is hereby approved. The appellant shall be **approved for 70 minutes per week for assistance with mobility (transfers)**.

(3) Grooming (Hair Styling)

The appellant requested 10 minutes per day for PCA assistance with grooming her hair given her thin hair that she reports knots easily. CCA argues that the approved 4 minutes per day of assistance, which is an increase from the 2 minutes previously allowed, should be more than sufficient to brush and style her hair every day. Although I don't doubt the appellant's testimony that her hair knots easily and is brushed and styled daily, I agree with CCA that 4 minutes should be more than sufficient time for the PCA to conduct that task. For those reasons, the appellant's request for additional PCA time for hair care is **denied**.

(4) Grooming (Lotion)

The appellant requested 15 minutes per day for PCA assistance to apply lotion to her body. CCA argues that the approved 4 minutes per day is sufficient to meet her needs. Based on the appellant's report and the documented report from her physician, the appellant has delicate, thin skin and recurrent cellulitis that requires significant daily lotion application. Moreover, I credit the reports that this is a particularly time-consuming task due to the need to roll the appellant over to apply lotion to her backside. Although the request falls outside of the Time-For-Task guidelines, I

find that the appellant has particular needs that require the time requested. The appellant shall be **approved** for 15 minutes per day, or **105 minutes per week for lotion application**.

(5) Toileting Transfers

For the reasoning described within paragraph 2, I find that the appellant has demonstrated that she requires assistance transferring to and from the toilet each instance in which she uses it. Her request of 6 minutes, 5 times per day, 7 days per week, or **210 minutes weekly for additional toileting time (transfers)**, is **approved**.

(6) Medication Administration

The parties agree that the appellant requires PCA assistance of 3 minutes, 2 times per day for medication administration. The appellant requests an additional administration per day on the grounds that she takes medications three times per day. CCA did not agree to the increase because the time was already increased from time that was previously approved. Based on the letter from the appellant's physician, the appellant takes two of her medications three times per day and requires assistance in their administration. Thus, the appellant's request for 3 minutes, 3 times per day, 7 days per week, or **63 minutes weekly for assistance with taking her medication** is **approved**.

(7) Meal Preparation (Snacks)

The appellant requests an additional 5 minutes per day for assistance with preparation for snacks. CCA argues that the appellant should not be given this time because she was observed being able to use the microwave on her own. However, this does not take into consideration the additional steps that can come with snack preparation, such as cutting, plating, and carrying the snack, each of which the appellant reports complete reliability on her PCA. The appellant has been approved time for maximum PCA assist with meal preparation, thus it logically follows that she would also require assistance for snacks. The requested 5 minutes per day falls within the Time-For-Task guidelines. Thus, the appellant's request for 5 minutes per day, or **35 minutes per week for snack preparation** is **approved**.

(8) Shopping

The appellant argues that she requires 120 minutes of weekly PCA assistance with shopping needs. In making this request, she largely relies on the distance between each of the stores and her home. CCA argued that 90 minutes for PCA assistance with reasonable and necessary shopping is the maximum amount as seen in the Time-For-Task Tool. See Exhibit 7 at 41. In this case, there is no evidence in the record to suggest that the appellant has shopping needs that are more significant than a typical person in her condition. For that reason, I am unable to find that the appellant has met her burden of proof with respect to this task. The appellant's request for an

additional 30 minutes per week for **shopping is denied.**

(9) Housekeeping

The appellant argues that she requires 156 minutes of weekly assistance with housekeeping. CCA argues that 90 minutes a week is the time set forth in the Time-For-Task tool for PCA assistance with housekeeping. Although the appellant's skin condition may require some daily bedroom cleaning, 8 minutes of daily vacuuming for one room is excessive. Further, trash need not be taken out every single day and 10 minutes a day is an excessive amount of time for trash removal for one person. Further, it is unclear what the differences between "other bathroom cleaning" and cleaning up regular bathroom messes that would require any additional cleaning time. In short, the appellant has not specifically and credibly demonstrated that her needed housekeeping time exceeds the traditionally allotted 90 minutes. Her request for a total of 156 minutes for **housekeeping is denied.**

(10) Special Needs (Equipment Cleaning)

The appellant requests a total of 70 minutes per week for cleaning of her DME, including her commode. CCA argues that 5 minutes per day of cleaning the appellant's commode should be more than sufficient. I do credit the CCA representative's testimony that, based on his experience with cleaning commodes, it takes approximately 5 minutes in each instance. However, the appellant has demonstrated that she uses additional DME that require cleaning. I do not believe that this would entitle her to an additional 5 minutes per day to clean her walker, which seems like it could be reasonably cleaned and/or wiped down in about a minute. The appellant's additional vague references to "other DME" without further specification do not provide the record with adequate evidence to allow me to approve the remaining requested time. Thus, the appellant is **approved** for 6 minutes per day, or **42 minutes per week for special needs involving the cleaning of her DME.**

(11) Transportation to Medical Appointments

The appellant requests an additional 8 minutes per week for assistance with transportation to medical appointments, arguing that CCA did not properly calculate the travel or transfer time for each trip. CCA argues that the travel time was calculated based on information provided, and that the approved transfer time considers the PCA's emotional support assistance. Without specific testimony or evidence of the locations of the appellant's doctor's, I am unable to agree with her request that she be granted additional PCA travel time. Further, the appellant is transported by ambulance to her appointments, and thus, travel time would not be covered under the MassHealth PCA program, though CCA can offer more services than MassHealth. Additionally, I agree with CCA that much of the hands-on assistance provided to the appellant with respect to the transfers is conducted by the EMTs, and that the approved time of 20 minutes per visit for transfers is for emotional support. Emotional support is not a covered PCA task under MassHealth

regulations, although, again, CCA can offer more assistance than that allowed by MassHealth. For those reasons, the appellant's request for additional assistance with **medical transportation** is **denied**.

Conclusion

In summation, based on both the agreements made at hearing and the rulings found herein, the appellant is approved for additional PCA time as noted above. For the foregoing reasons, this appeal is hereby approved in part, denied in part, and dismissed in part.

Order for Commonwealth Care Alliance

Remove aid pending and recalculate the appellant's total PCA hours as set forth above, retroactive to the start date of February 4, 2024.

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.

Mariah Burns
Hearing Officer
Board of Hearings

MassHealth Representative: Commonwealth Care Alliance SCO, Attn: Nayelis Guerrero, 30 Winter Street, Boston, MA 02108