

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Approved in part; Denied in part	<b>Appeal Number:</b>	2404110
<b>Decision Date:</b>	7/8/2024	<b>Hearing Date:</b>	05/08/2024
<b>Hearing Officer:</b>	Emily Sabo	<b>Record Open to:</b>	05/29/2024

**Appearance for Appellant:**



**Appearances for Commonwealth Care Alliance:**

Cassandra Horne, Appeals & Grievances Manager; Jeremiah Mancuso, Clinical RN Appeals & Grievances Manager; Kaley Ann Emery, Appeals Supervisor



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

## APPEAL DECISION

<b>Appeal Decision:</b>	Approved in part; Denied in part	<b>Issue:</b>	Managed Care Organization—Denial of Internal Appeal; Prior Authorization; Personal Care Attendance (PCA) Services
<b>Decision Date:</b>	7/8/2024	<b>Hearing Date:</b>	05/08/2024
<b>CCA Rep.:</b>	Cassandra Horne; Jeremiah Mancuso; Kaley Ann Emery	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Quincy Harbor South 2	<b>Aid Pending:</b>	No

### 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 21, 2024, Commonwealth Care Alliance (CCA), a MassHealth Integrated Care Organization (ICO) and MassHealth's agent, denied the Appellant's level one appeal of a modification of a prior authorization request for personal care attendant (PCA) services. Exhibit 1.<sup>1</sup> The Appellant filed this external appeal with the Board of Hearings in a timely manner on March 15, 2024. 130 CMR 610.015 and Exhibit 2. Denial of a level one internal appeal

---

<sup>1</sup> An Integrated 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."

by a managed care organization is a valid ground for appeal to the Board of Hearings. 130 CMR 610.032(B).

## Action Taken by Commonwealth Care Alliance

CCA reduced the Appellant's allotted PCA service hours effective March 7, 2024.

## Issue

Whether CCA was acting within its discretion in its decision to reduce the Appellant's allotted PCA service hours.

## Summary of Evidence

The Appellant and hearing officer met for the hearing in the Quincy office and the CCA representatives participated virtually. The Appellant verified her identity. The parties' testimony and record evidence are summarized as follows:

The Appellant is an adult between the ages of [REDACTED]. The Appellant's medical history includes triplegia/spastic quadriparesis, scoliosis, hypertension, osteoporosis, history of falls, restless leg syndrome, chronic back pain, and depression. The Appellant testified that her mother reported that the Appellant was born a healthy baby in [REDACTED] and was healthy until approximately [REDACTED] when she was exposed to Agent Orange and also contracted polio.

On February 24, 2022, the Appellant was assessed for PCA services and was authorized for 55.75 hours per week. On April 18, 2023, the Appellant was assessed for PCA services and was authorized for 52.5 hours per week. The Appellant appealed that decision to the Board of Hearings. A hearing was held on August 17, 2023, and at the hearing, the parties agreed that CCA would restore the hours to 55.75 per week (41.75 day/evening hours and 14 night hours), and that a new evaluation would be undertaken by the [REDACTED] "to obtain more accurate request for PCA hours needed." Exhibit 7 at 2.

On December 1, 2023, the [REDACTED] conducted an assessment:

Day/Evening PCA Activity ADLS	Status	PCA Times (in minutes)	Times a Day	Days a Week	Total Minutes per Week
Mobility-- Transfers	Dependent	5	8	7	280
Assistance	Dependent	15	1	7	105

with Medications					
Bathing (Shower)	Dependent	60	1	7	420
General Grooming	Dependent	15	1	7	105
Dressing	Dependent	15	1	7	105
Undressing	Dependent	10	1	7	70
PROM--Upper Extremities	Dependent	20	1	7	140
PROM—Lower Extremities	Dependent	20	1	7	140
Bladder Care	Dependent	10	6	7	420
Bowel Care	Dependent	15	2	7	210
<b>Day/Evening PCA Activity IADLS</b>	<b>Status</b>	<b>PCA Times (in minutes)</b>	<b>Times a Day</b>	<b>Days a Week</b>	<b>Total Minutes per Week</b>
Laundry	Dependent	90	1	1	90
Shopping	Dependent	90	1	1	90
Housekeeping	Dependent	90	1	1	90
Meal Prep and Clean up—Breakfast	Dependent	15	1	7	105
Meal Prep and Clean up—Lunch	Dependent	30	1	7	210
Meal Prep and Clean up—Dinner	Dependent	45	1	7	315
Medical Appointment Transportation					45
Special Needs (cleans and disinfects scooter, shower chair, bike), and paperwork and bills	Dependent	15	1	7	105

<b>Night time</b>		120		7	840
				<b>Total:</b>	<b>3,885 minutes or 64.75 hours</b>

Exhibit 5 at 245-49.

CCA modified the PCA time to allow 54 hours weekly (40 day/evening hours, 14 night hours). CCA's modifications occurred in four categories of activities of daily living: Mobility, Medication Assistance, Bathing, Passive Range of Motion, and one category of instrumental activities of daily living, Special Needs. Overall, CCA argued that authorizations should follow the time estimates outlined in the Time-For-Tasks Guidelines for the MassHealth PCA Program, that the PCA is "not covered for possible or preventative needs," and that less costly alternatives must be considered. Exhibit 5 at 2. The Time-For-Tasks Guidelines for the MassHealth PCA Program provides the following:

<b>Levels of Physical Assistance</b>	
<b>Level</b>	<b>Description</b>
Independent	Member requires 0% physical assistance to complete task
Minimal Assist	Member requires up to 25% physical assistance to complete task
Moderate Assist	Member performed part of activity but requires up to 50% physical assistance to complete task
Maximum Assist	Member involved and requires up to 75% physical assistance to complete task
Total Dependence	Member requires full performance (100%) of activity by another

Exhibit 5 at 115.

### **Mobility**

assessment for mobility states: "PCA assists with all transfers. Cons[umer] is non-ambulatory, assists [out of bed] to scooter, back to bed for Rest/naps.

[Dependent] on all.” Exhibit 5 at 245.

CCA modified the requested time from 280 minutes to 112 minutes. CCA explained that the Appellant’s medical records indicate that she can walk with a rolling walker, and stand for twenty minutes. CCA stated that 2 minutes as opposed to 5 minutes was appropriate. CCA stated that the Appellant is not fully “dependent” and that that status would indicate an individual who is paraplegic and cannot move their limbs at all, such that the PCA would have to bear all of the individual’s weight.

The Appellant testified that she had incidents in [REDACTED] in which she went to the emergency room because she could not move. The Appellant testified that she has fragile bones and that her doctor warned her about her fall risk. The Appellant explained that she had a history of falling every one to two months. The Appellant testified that she needs assistance to get out of bed.

As part of her fair hearing request, the Appellant included a letter from her physical therapist stating that based on the Appellant’s medical history, “it is imperative that she receive continued maintenance care to maintain level of function. With physical therapy and care through PCA services, she has maintained a level of functioning, including ambulating with rolling walker, but she is still a high risk for falls. . . . Without services listed, [the Appellant] reports increased pain and demonstrates regression in strength and ability to perform functional movements safely such as bed mobility and functional transfers.” Exhibit 2 at 18.

The Time-For-Tasks Guidelines for mobility are:

- Transfers (per task)
  - Minimal Assist=3 minutes
  - Moderate Assist=5 minutes
  - Maximum Assist=7 minutes
  - Total Dependence=10 minutes
- Walking: use of mobility equipment (per task)
  - Minimal Assist=1 minute
  - Moderate Assist=2 minutes
  - Maximum Assist=3 minutes
  - Total Dependence=5 minutes
- Repositioning (per task)
  - Minimal Assist=3 minutes
  - Moderate Assist=5 minutes
  - Maximum Assist=7 minutes
  - Total Dependence=10 minutes

Exhibit 5 at 105.

## **Medication Assistance**

[REDACTED] assessment for medication assistance states: "PCA fills pill box weekly and gives meds as ordered 3x/day. Cons[umer] can't manage d/t minimal ROM in (L) AROM (*sic*) and contractures and spasms." Exhibit 5 at 245.

CCA modified the requested time from 105 minutes to 31 minutes. CCA testified that the Appellant's April 2023 evaluation indicated that the Appellant required 31 minutes for medication assistance and no explanation was given for the increase. CCA testified that the Appellant's pillbox should be filled once a week and that the medication should be administered once a day.

The Appellant testified that the PCA fills the Appellant's pillbox and verifies that the Appellant is taking the right pills. The Appellant stated she takes ten pills in the morning, three in the afternoon, eight in evening, and then herbs for sleep. The Appellant also testified that the PCA applies a topical pain patch to her back and shoulder.

The Time-For-Tasks Guidelines for medication assistance are:

- Physical assistance provided to member to set up weekly pillbox
  - 20 minutes
- Physical assistance provided to member to take medication as prescribed
  - 0-3 minutes each time per occurrence
- Physically assisting member with other health-related needs (examples: skin care, applying lotion, wound care, eye or ear drops, sunscreen, blood sugar level checks, etc.)
  - To be determined based on individual considerations

Exhibit 5 at 107.

## **Bathing**

[REDACTED] assessment for bathing (shower) states: "PCA assists with all aspects of bathing incl[uding] transfers in/out of shower, on/off shower chair. Assists with all washing, rinsing, drying d/t (L) ARM (*sic*), contracture and limited ROM (minimal). Assists washing hair and skin care. Cons[umer] with spasms, [Dependent] on all." Exhibit 5 at 245.

CCA modified the requested time from 420 minutes to 315 minutes. CCA explained that the requested 60 minutes/day for showering is for those who are totally dependent, and no explanation was given for why the Appellant went from maximum assistance to totally dependent. CCA explained that the modification reflected 45 minutes for showering daily, which is the time for task allocation for those requiring maximum assistance.

The Appellant testified that she needs PCA assistance with transferring to her shower chair and with all the functions of washing and drying her body and hair. The Appellant explained that her

bones and muscles are tight. The Appellant testified that her condition has worsened over time. The Appellant explained that she would like to be more independent and to get outside and not just be at home by herself.

The Time-For-Tasks Guidelines for bathing are:

- Taking full-body bath, including set-up, transfers in/out of tub and toweling dry;
  - Minimal Assist=15 minutes
  - Moderate Assist=30 minutes
  - Maximum Assist=45 minutes
  - Total Dependence=60 minutes
- Taking shower, including shampooing hair, set-up, transfer in/out of shower, and toweling dry
  - Minimal Assist=15 minutes
  - Moderate Assist=30 minutes
  - Maximum Assist=45 minutes
  - Total Dependence=60 minutes
- Giving bed bath including set up
  - Minimal Assist=15 minutes
  - Moderate Assist=30 minutes
  - Maximum Assist=45 minutes
  - Total Dependence=60 minutes
- Shampooing hair, including set-up and hair drying (if not included in shower or bed bath)
  - Minimal Assist=5 minutes
  - Moderate Assist=8 minutes
  - Maximum Assist=12 minutes
  - Total Dependence=25 minutes

Exhibit 5 at 108.

### **Passive Range of Motion (PROM)**

[REDACTED] assessment for PROM states: “PCA assists with PROM to [upper and lower extremities] to promote circulation, ease pain, stretching and prevent further contractures. Cons[umer] with poor blood flow to [extremities]. PCA assists with exercises and bike to maintain tone fall set up and assist as needed.” Exhibit 5 at 246.

CCA modified the requested time from 280 minutes to 70 minutes. CCA testified that PROM is when an outside force, here, the PCA, causes movement of the joint and it is not intended for people who can move their own extremities. CCA explained that PROM is intended for people who are not able to move their joints to prevent contractures, that the Appellant is able to move her extremities and that the request refers to the Appellant’s exercise bike. Upon inquiry as to why CCA approved 280 minutes for PROM in 2022, CCA and explained that that was an oversight.



The Appellant testified that her issues are worse on her left side, and that she cannot raise her arms or legs. The Appellant testified that she lays down and the PCA helps move the Appellant's limbs because the Appellant cannot move them at all. The Appellant testified that her physical therapist has said this is important. The Appellant testified that for a month she was unable to move around.

The Appellant's physical therapist wrote that the Appellant "would continue to highly benefit from PROM through PCA services d/t high levels of tone in both [upper extremities] and [lower extremities]." Exhibit 2 at 18.

The Time-For-Tasks Guidelines for passive range of motion exercises are:

- Upper extremities
  - Average range 10-30 minutes
- Lower extremities
  - Average range 10-30 minutes

Exhibit 5 at 110.

### **Special Needs**

[REDACTED] assessment for special needs states that the Appellant is dependent, that her equipment includes a scooter, shower chair, and bike and that "PCA assists with maintaining, cleaning and disinfecting all equipment. PCA assists with paperwork and bills. Cons[umer] with contractures and spasms, non-ambulatory, [Dependent] on all." Exhibit 5 at 247.

CCA modified the requested time from 105 minutes to 15 minutes. CCA explained that the tasks were to be completed once a week rather than daily, so 15 minutes was appropriate. CCA also stated that no time was allotted for special needs in the April 2023 evaluation.

The Appellant testified that she is allergic to dust, such that her equipment must be cleaned and disinfected daily. The Appellant testified that she is also sensitive to mold. The Appellant testified that the PCA assists her with her mail, bills, and paperwork, due to her pain and limitations of her upper extremities.

The Time-For-Tasks Guidelines for special needs states they are to be determined by individual consideration. Exhibit 5 at 114.

As part of her fair hearing request, the Appellant included a letter from her primary care nurse practitioner, who wrote the Appellant:

is a disabled woman with many chronic physical impairments and she requires the service of personal care attendants for all daily living activities. In order to manage

her care, it is medically necessary that reasonable accommodation be provided to reinstate the 63.5 hours weekly of PCA care she was previously allotted by the most recent evaluation in November of 2023. She does have assistive devices in her home that help to improve her wellbeing. However, without the consistent assistance of PCAs she experiences gradual deconditioning and worsening of her chronic pain. Due to these factors, it is necessary that [the Appellant] have her PCA hours increased so that she can continue to live independently in the community.

Exhibit 2 at 3.

The record was held open so that CCA could review and respond to additional exhibits submitted by the Appellant during the hearing. The record was also held open for CCA to provide evidence or citations to the record regarding medical notes relied on for the modifications to time for mobility and medication administration. CCA did not respond during the record open period.

## Findings of Fact

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

1. The Appellant is an adult between the ages of [REDACTED] Exhibit 4.
2. The Appellant's medical history includes triplegia/spastic quadriparesis, scoliosis, hypertension, osteoporosis, history of falls, restless leg syndrome, chronic back pain, and depression. Testimony and Exhibit 5.
3. On February 24, 2022, the Appellant was assessed for PCA services and was authorized for 55.75 hours per week. Exhibit 5.
4. On April 18, 2023, the Appellant was assessed for PCA services and was authorized for 52.5 hours per week. The Appellant appealed that decision to the Board of Hearings. A hearing was held on August 17, 2023; at the hearing, the parties agreed that CCA would restore the hours to 55.75 per week (41.75 day/evening hours and 14 night hours), and that a new evaluation would be undertaken by the [REDACTED] "to obtain more accurate request for PCA hours needed." Testimony, Exhibit 5, Exhibit 7 at 2.
5. On December 1, 2023, the [REDACTED] conducted an assessment:

Day/Evening PCA Activity ADLS	Status	PCA Times (in minutes)	Times a Day	Days a Week	Total Minutes per Week
Mobility--	Dependent	5	8	7	280

Transfers					
Assistance with Medications	Dependent	15	1	7	105
Bathing (Shower)	Dependent	60	1	7	420
General Grooming	Dependent	15	1	7	105
Dressing	Dependent	15	1	7	105
Undressing	Dependent	10	1	7	70
PROM--Upper Extremities	Dependent	20	1	7	140
PROM—Lower Extremities	Dependent	20	1	7	140
Bladder Care	Dependent	10	6	7	420
Bowel Care	Dependent	15	2	7	210
<b>Day/Evening PCA Activity IADLS</b>	<b>Status</b>	<b>PCA Times (in minutes)</b>	<b>Times a Day</b>	<b>Days a Week</b>	<b>Total Minutes per Week</b>
Laundry	Dependent	90	1	1	90
Shopping	Dependent	90	1	1	90
Housekeeping	Dependent	90	1	1	90
Meal Prep and Clean up—Breakfast	Dependent	15	1	7	105
Meal Prep and Clean up—Lunch	Dependent	30	1	7	210
Meal Prep and Clean up—Dinner	Dependent	45	1	7	315
Medical Appointment Transportation					45
Special Needs (cleans and disinfects scooter, shower chair, bike), and	Dependent	15	1	7	105

paperwork and bills					
<b>Night time</b>		120		7	840
				<b>Total:</b>	<b>3,885 minutes or 64.75 hours</b>

Exhibit 5 at 245-49.

6. CCA modified the PCA time to allow 54 hours weekly (40 day/evening hours, 14 night hours). Testimony, Exhibit 5.
7. CCA's modifications occurred in four categories of activities of daily living: Mobility, Medication Assistance, Bathing, Passive Range of Motion, and one category of instrumental activities of daily living: Special Needs. Testimony, Exhibit 5.
8. The Time-For-Tasks Guidelines for the MassHealth PCA Program provides the following:

<b>Levels of Physical Assistance</b>	
<b>Level</b>	<b>Description</b>
Independent	Member requires 0% physical assistance to complete task
Minimal Assist	Member requires up to 25% physical assistance to complete task
Moderate Assist	Member performed part of activity but requires up to 50% physical assistance to complete task
Maximum Assist	Member involved and requires up to 75% physical assistance to complete task
Total Dependence	Member requires full performance (100%) of activity by another

Exhibit 5 at 115.

9. CCA modified the requested time for mobility from 280 minutes to 112 minutes. Testimony, Exhibit 5.

10. The Appellant's physical therapist wrote that based on the Appellant's medical history, "it is imperative that she receive continued maintenance care to maintain level of function. With physical therapy and care through PCA services, she has maintained a level of functioning, including ambulating with rolling walker, but she is still a high risk for falls. . . . Without services listed, [the Appellant] reports increased pain and demonstrates regression in strength and ability to perform functional movements safely such as bed mobility and functional transfers." Exhibit 2 at 18.

11. The Time-For-Tasks Guidelines for mobility are:

- Transfers (per task)
  - Minimal Assist=3 minutes
  - Moderate Assist=5 minutes
  - Maximum Assist=7 minutes
  - Total Dependence=10 minutes
- Walking: use of mobility equipment (per task)
  - Minimal Assist=1 minute
  - Moderate Assist=2 minutes
  - Maximum Assist=3 minutes
  - Total Dependence=5 minutes
- Repositioning (per task)
  - Minimal Assist=3 minutes
  - Moderate Assist=5 minutes
  - Maximum Assist=7 minutes
  - Total Dependence=10 minutes

Exhibit 5 at 105.

12. CCA modified the requested time for medication assistance from 105 minutes to 31 minutes. Testimony, Exhibit 5.

13. The Time-For-Tasks Guidelines for medication assistance are:

- Physical assistance provided to member to set up weekly pillbox
  - 20 minutes
- Physical assistance provided to member to take medication as prescribed
  - 0-3 minutes each time per occurrence
- Physically assisting member with other health-related needs (examples: skin care, applying lotion, wound care, eye or ear drops, sunscreen, blood sugar level checks, etc.)
  - To be determined based on individual considerations

Exhibit 5 at 107.

14. CCA modified the requested time for bathing from 420 minutes to 315 minutes. Testimony, Exhibit 5.

15. The Time-For-Tasks Guidelines for bathing are:

- Taking full-body bath, including set-up, transfers in/out of tub and towel dry;
  - Minimal Assist=15 minutes
  - Moderate Assist=30 minutes
  - Maximum Assist=45 minutes
  - Total Dependence=60 minutes
- Taking shower, including shampooing hair, set-up, transfer in/out of shower, and towel dry
  - Minimal Assist=15 minutes
  - Moderate Assist=30 minutes
  - Maximum Assist=45 minutes
  - Total Dependence=60 minutes
- Giving bed bath including set up
  - Minimal Assist=15 minutes
  - Moderate Assist=30 minutes
  - Maximum Assist=45 minutes
  - Total Dependence=60 minutes
- Shampooing hair, including set-up and hair drying (if not included in shower or bed bath)
  - Minimal Assist=5 minutes
  - Moderate Assist=8 minutes
  - Maximum Assist=12 minutes
  - Total Dependence=25 minutes

Exhibit 5 at 108.

16. CCA modified the requested time for PROM from 280 minutes to 70 minutes. Testimony, Exhibit 5.

17. The Appellant's physical therapist wrote that the Appellant "would continue to highly benefit from PROM through PCA services d/t high levels of tone in both [upper extremities] and [lower extremities]." Exhibit 2 at 18.

18. The Time-For-Tasks Guidelines for passive range of motion exercises are:

- Upper extremities
  - Average range 10-30 minutes
- Lower extremities
  - Average range 10-30 minutes

Exhibit 5 at 110.

19. CCA modified the requested time for special needs from 105 minutes to 15 minutes. Testimony, Exhibit 5.
20. The Time-For-Tasks Guidelines for special needs states they are to be determined by individual consideration. Exhibit 5 at 114.
21. The Appellant's primary care nurse practitioner wrote that the Appellant, "is a disabled woman with many chronic physical impairments and she requires the service of personal care attendants for all daily living activities. In order to manage her care, it is medically necessary that reasonable accommodation be provided to reinstate the 63.5 hours weekly of PCA care she was previously allotted by the most recent evaluation in November of 2023. She does have assistive devices in her home that help to improve her wellbeing. However, without the consistent assistance of PCAs she experiences gradual deconditioning and worsening of her chronic pain. Due to these factors, it is necessary that [the Appellant] have her PCA hours increased so that she can continue to live independently in the community." Exhibit 2 at 3.

## Analysis and Conclusions of Law

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

(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 ■ years of age at time of enrollment may enroll in an ICO pursuant to 130 CMR 508.007(A).

130 CMR 508.001(D).

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

Obtaining Services When Enrolled in an 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.

130 CMR 508.007(C).

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.

140 CMR 508.010 (emphasis added).

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 and instrumental activities of daily living 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.

130 CMR 422.403(C).

Regulation 130 CMR 422.410 describes the activities of daily living and instrumental activities of daily living:

(A) Activities of Daily Living (ADLs). Activities of daily living include the following categories of activities. Any number of activities within one category of activity is counted as one ADL:

- (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 bathing, personal hygiene, or grooming;
- (4) dressing: 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 or bladder needs. 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.

(B) Instrumental Activities of Daily Living (IADLs). Instrumental activities of daily living include the following:

- (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 PCA 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(A), (B).

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.

130 CMR 450.204(A).

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.

130 CMR 422.412.

The Appellant has the burden “to demonstrate the invalidity of the administrative determination.” [REDACTED] See also [REDACTED]

CCA’s modifications occurred in four categories of activities of daily living: Mobility, Medication Assistance, Bathing, Passive Range of Motion, and one category of instrumental activities of daily living: Special Needs.

#### **Mobility**

[REDACTED] assessment requested 280 minutes weekly for mobility, based on 5 minutes, 8 times a day, 7 days a week. CCA modified that request to 112 minutes per week. CCA’s rationale for the modification was that the Appellant is not fully dependent and that 2 minutes rather than 5 per occurrence was appropriate. The Time-For-Tasks Guidelines for mobility transfers recommend 3 minutes per task for an individual needing minimal assistance (up to 25% physical assistance to complete task), 5 minutes per task for an individual needing moderate assistance (member performed part of activity but requires up to 50% physical assistance to complete task), 7 minutes per task for an individual needing maximum assistance (member involved and requires up to 75% physical assistance to complete task), and 10 minutes per task for a totally dependent individual (member requires full performance (100% of activity by another).

After reviewing the evidence including the MassHealth Time-For-Tasks Guidelines, I find that the Appellant has met her burden to show the invalidity of CCA’s determination. While CCA stated that the Appellant was not fully dependent, CCA did not provide evidence that the Appellant needed less than minimal assistance of up to 25% to transfer, such that 2 minutes per occurrence is appropriate. The Appellant met her burden by also providing letters from her CCA/One Care medical team also indicating that the PCA time is medically necessary. Exhibit 2. Accordingly, regarding mobility, the appeal is approved.

#### **Medication Assistance**

[REDACTED] assessment requested 105 minutes weekly based on 15 minutes daily, 7 days a week. CCA modified that request to 31 minutes a week. CCA's rationale for the modification was that the Appellant's April 2023 evaluation indicated that the Appellant required 31 minutes for medication assistance and no explanation was given for the increase.

The Time-For-Tasks Guidelines for medication assistance are:

- Physical assistance provided to member to set up weekly pillbox
  - 20 minutes
- Physical assistance provided to member to take medication as prescribed
  - 0-3 minutes each time per occurrence
- Physically assisting member with other health-related needs (examples: skin care, applying lotion, wound care, eye or ear drops, sunscreen, blood sugar level checks, etc.)
  - To be determined based on individual considerations

Exhibit 5 at 107.

After reviewing the evidence including the MassHealth Time-For-Tasks Guidelines, I find that the Appellant has met her burden to show the invalidity of CCA's determination. The Appellant's records indicate that she takes seven medications once a day, six medications twice a day, one medication three times a day, and six other medications as necessary. Exhibit 5 at 280-81. The time requested falls within the MassHealth Time-For-Tasks Guidelines. Therefore, regarding medication assistance, the appeal is approved.

### **Bathing**

[REDACTED] Living assessment for bathing (shower) requested 420 minutes weekly, with 60 minutes/day for showering, 7 days a week. CCA modified the request to 315 minutes on the basis that the Appellant had previously been categorized as requiring "maximum assistance," which is 45 minutes for showering, 7 days a week. The Appellant testified that she needs PCA assistance with transferring to her shower chair and with all the functions of washing and drying her body and hair. The Appellant explained that her bones and muscles are tight. The Appellant testified that her condition has worsened over time.

The Time-For-Tasks Guidelines for bathing are:

- Taking full-body bath, including set-up, transfers in/out of tub and toweling dry;
  - Minimal Assist=15 minutes
  - Moderate Assist=30 minutes
  - Maximum Assist=45 minutes
  - Total Dependence=60 minutes
- Taking shower, including shampooing hair, set-up, transfer in/out of shower, and toweling dry
  - Minimal Assist=15 minutes

- Moderate Assist=30 minutes
- Maximum Assist=45 minutes
- Total Dependence=60 minutes
- Giving bed bath including set up
  - Minimal Assist=15 minutes
  - Moderate Assist=30 minutes
  - Maximum Assist=45 minutes
  - Total Dependence=60 minutes
- Shampooing hair, including set-up and hair drying (if not included in shower or bed bath)
  - Minimal Assist=5 minutes
  - Moderate Assist=8 minutes
  - Maximum Assist=12 minutes
  - Total Dependence=25 minutes

Exhibit 5 at 108.

After reviewing the evidence including the MassHealth Time-For-Tasks Guidelines, I find that the Appellant has not met her burden to show the invalidity of CCA's determination. Therefore, the appeal is denied regarding bathing time.

#### **Passive Range of Motion (PROM)**

assessment for PROM requests 20 minutes, daily, 7 days a week for upper extremities and 20 minutes, daily, 7 days a week for lower extremities for a total of 280 minutes weekly. CCA modified the request to 70 minutes weekly on the basis that the Appellant can move her own extremities. The Appellant testified that her issues are worse on her left side, and that she cannot raise her arms or legs. The Appellant's physical therapist wrote that the Appellant "would continue to highly benefit from PROM through PCA services d/t high levels of tone in both [upper extremities] and [lower extremities]." Exhibit 2 at 18.

The Time-For-Tasks Guidelines for passive range of motion exercises are:

- Upper extremities
  - Average range 10-30 minutes
- Lower extremities
  - Average range 10-30 minutes

Exhibit 5 at 110.

After reviewing the evidence including the MassHealth Time-For-Tasks Guidelines, I find that the Appellant has met her burden to show the invalidity of CCA's determination. The time requested falls within the MassHealth Time-For-Tasks Guidelines and the Appellant's medical

team indicated that the PCA time is medically necessary. Exhibit 2. Accordingly, regarding PROM, the appeal is approved.

### **Special Needs**

[REDACTED] assessment requested 105 minutes for special needs weekly, specifically for maintaining, cleaning and disinfecting her scooter, shower chair, and bike, and for assisting with paperwork and bills. CCA modified the requested time to 15 minutes on the basis that the tasks were to be completed once a week rather than daily. The Appellant testified that she is allergic to dust, such that her equipment must be cleaned and disinfected daily. The Appellant testified that she is also sensitive to mold. The Appellant testified that the PCA assists her with her mail, bills, and paperwork, due to her pain and limitations of her upper extremities. The Time-For-Tasks Guidelines for special needs states they are to be determined by individual consideration. Exhibit 5 at 114.

After reviewing the evidence, I find that the Appellant has met her burden to show the invalidity, in part, of CCA's determination. The Appellant's 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 special needs, the appeal is approved, inasmuch as CCA shall allot 85 minutes per week. In conclusion, the Appellant's appeal is approved in part and denied in part.

## **Order for MassHealth**

Regarding the modifications subject to the notice dated February 21, 2024, CCA shall implement the following allotments, for the period of March 7, 2024 to March 6, 2025:

- 1) Mobility: 280 minutes per week shall be allotted by CCA to the Appellant.
- 2) Medication Assistance: 105 minutes per week shall be allotted by CCA to the Appellant.
- 3) PROM: 280 minutes per week shall be allotted by CCA to the Appellant.
- 4) Special Needs: 85 minutes per week shall be allotted by CCA to the Appellant.

## **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.

---

Emily Sabo  
Hearing Officer  
Board of Hearings

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