

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved in part; Denied in part	Appeal Number:	2410196
Decision Date:	10/10/2024	Hearing Date:	8/14/2024
Hearing Officer:	Cynthia Kopka	Record Open to:	9/13/2024

Appearances for Appellant:



Appearances for Respondent:

Cassandra Horne, Appeals and Grievances
Operations Manager
Jeremiah Mancuso, RN, Clinical Appeals and
Grievances Manager
Kaley Ann Emery, Appeals Supervisor
Kimberly Gallindo, Utilization Management
(UM) RN
Amy Stebbins, UM Manager, RN



*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	Issue:	Managed care, prior authorization, PCA
Decision Date:	10/10/2024	Hearing Date:	8/14/2024
Respondent's Reps.:	[REDACTED]	Appellant's Reps.:	Attorney, PCA, self
Hearing Location:	Quincy (virtual)	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

By notice dated June 20, 2024, Commonwealth Care Alliance (CCA), a MassHealth Integrated Care Organization (ICO), denied Appellant's Level I appeal, partially approving Appellant's request for personal care attendant (PCA) service hours. Exhibit 1. Appellant filed a request for fair hearing in a timely manner on July 1, 2024 and was eligible to retain the prior benefit level pending the outcome of the appeal. Exhibit 2. 130 CMR 610.015(B), 610.036. Denial or modification of assistance is a valid basis for appeal. 130 CMR 508.010, 130 CMR 610.032(B). The hearing record was held open through September 13, 2024 for the submission of additional evidence. Exhibit 7.

Action Taken by Respondent

CCA partially approved Appellant's request for PCA service hours.

Issue

The appeal issue is whether Appellant is eligible for more PCA service hours than approved by CCA.

Summary of Evidence

CCA's representatives appeared at virtual hearing and provided written materials in support. Exhibits 4 and 5. Appellant appeared at virtual hearing with her attorney and personal care attendant (PCA) and submitted records in support, Exhibit 6. At the hearing, the issues in dispute were narrowed, and the hearing record was held open for the parties to submit additional evidence and legal argument. Exhibit 7. A summary of the identified issues in dispute from the hearing and the post-hearing submissions follows.

Appellant is enrolled in CCA's OneCare program. Appellant is in her [REDACTED] with significant medical history affecting her ability to perform activities of daily living (ADLs), including but not limited to lupus, hidradenitis suppurativa, osteoporosis, alopecia, and paraplegia. Appellant is wheelchair-dependent. Exhibit 4 at 95-96. The request on appeal was for personal care attendant (PCA) services. Appellant had been receiving 117.25 hours of PCA services per week following a fair hearing, at which the parties had agreed on the hours approved and the appeal was withdrawn (Appeal No. 2209558, referred to hereinafter as the "2022 hearing"). On March 26, 2024, Appellant was re-evaluated for PCA services by Northeast Arc, the Personal Care Management Agency (PCMA), resulting in a request for an increase to 134.75 hours (120 day/evening hours and 14 night hours). *Id.* at 1.

On April 15, 2024, CCA reviewed Appellant's request for 134.75 hours and issued a partial approval, approving 95.75 hours per week. *Id.* at 1, 109. Appellant filed a Level I appeal on May 29, 2024. On June 11, 2024, CCA denied the Level I appeal and notified Appellant in writing on June 20, 2024. Exhibit 1. According to CCA's representative, Appellant was eligible for 134.75 hours through September 1, 2024 or the date of the hearing decision, whichever is later.

Appellant's attorney narrowed the scope of the appeal at hearing and in the post-hearing brief. Appellant seeks to preserve the 117.25 hours she had been granted in the past and is not looking for the full 134.75 hours requested by the PCMA evaluator. When asked if the parties could agree to 117.25 hours to resolve the dispute, CCA declined.

In her post-hearing brief, Appellant's attorney identified areas in which Appellant agreed with the time granted by CCA. Appellant agreed with time granted for activities of daily living (ADLs): mobility, bathing, oral care, hair care, lotion, dressing, undressing, bladder care, and other health care needs. Appellant agreed with the time granted for two instrumental activities of daily living (IADLs): housekeeping and shopping. The items in dispute are as follows:

- ADLs
 - Passive range of motion (PROM)
 - Grooming - nail care
 - Grooming - shaving
 - Eating
 - Bowel care

- Medication administration
- Medication planner prefill
- IADLs
 - Meal preparation
 - Laundry
 - Equipment maintenance
 - PCA paperwork

For PROM, Appellant seeks 840 minutes per week, broken down as 15 minutes, 2 times per day, 7 days per week for each of her four limbs. Exhibit 8 at 2.¹ CCA approved 420 minutes per week, broken down as 15 minutes, 1 time per day, 7 days per week for each of the four limbs. Exhibit 4 at 8. At the 2022 hearing, CCA agreed to approve 840 minutes per week. CCA argued that once daily PROM is standard for an individual who requires maximum assistance for this task. CCA argued that PROM is generally intended for individuals with no movement of the extremities and require someone else to move limbs to prevent contractures. CCA's time for task guidelines for the PCA program provides that an average time estimate for PROM is between 10-30 minutes for upper and lower extremities. *Id.* at 136.

Appellant testified that her lower limbs are very tight. Appellant testified that her rheumatologist recommended PROM twice a day to prevent contractures. Appellant requires the same level of care that she has needed in prior years. Appellant's PCA testified that she assists Appellant with PROM for two hours per day due to pain in Appellant's joints. Exhibit 9 at 2. Appellant's attorney argued that Appellant suffers from extreme muscle weakness and tension. Appellant's rheumatologist wrote in a medical letter that it is "imperative that [Appellant] continue aggressive regular ongoing physical therapy to prevent progression of weakness in her muscles." *Id.* at 6. Appellant's attorney argued that cutting her PROM time in half would not allow Appellant's PCA to complete her exercises, which would have a detrimental effect on her mobility and the strength of her already weakening muscles. Exhibit 8 at 2.

For nail care, Appellant seeks 60 minutes per week. CCA approved 30 minutes per week, which was the same as was agreed to at the 2022 hearing. CCA testified that 60 minutes for nail care per week is excessive. CCA's time for task guidelines indicate that 25 minutes is the average number of minutes approved for all grooming tasks (including nail care, oral care, shaving, deodorant application, hair care, and washing and drying hands and face) for a person who is totally dependent. *Id.* at 134.

Appellant and her PCA testified that due to Appellant's lupus, Appellant's nails are brittle. Appellant's nails can break vertically, which is painful and puts her at risk for infection. Appellant's PCA testified that 30 minutes is not enough time to cut, file, and polish Appellant's nails. Appellant's PCA attested that she applies stick-on nails to protect Appellant's nails. Exhibit 9 at 3.

¹ The PCMA requested 1120 minutes per week, or 20 minutes, 2 times per day, 7 days per week. Exhibit 4 at 8.

For shaving, Appellant's attorney wrote in her brief that Appellant seeks 55 minutes of assistance with shaving per week. Exhibit 8 at 3. Appellant's PCMA requested 30 minutes per week for shaving. Exhibit 4 at 8. After the 2022 hearing, the parties had agreed on 35 minutes per week. *Id.* For this request, CCA approved 25 minutes per week. *Id.*

The parties did not discuss the request for shaving assistance at hearing, as there was confusion as to how the parties had arrived at agreement of 325 minutes total for grooming during the 2022 hearing. *Id.* In the post-hearing brief, Appellant's attorney argued that 25 minutes is not enough for shaving due to Appellant's hidradenitis suppurativa, which increases skin sensitivity and causes infections in the armpit and groin area. Appellant's PCA attested that it takes 55 minutes per week for shaving. Exhibit 9 at 3. The post-hearing submission did not include specific estimations of the time it takes to shave each area of the body, or how frequently the task is done per week.

For eating (physically feeding appellant or physically assisting appellant to eat), Appellant seeks 420 minutes per week, broken down as 20 minutes, 3 times per day, 7 days per week. This was what the parties agreed to at the 2022 hearing. The PCMA requested 315 minutes, broken down as 15 minutes, 3 times per day, 7 days per week. Exhibit 4 at 8. The PCMA wrote that Appellant requires maximum assistance for eating and drinking. *Id.* at 189-190. CCA approved 210 minutes per week, or 10 minutes, 3 times per day, 7 days per week. *Id.* at 8. CCA's nurse reviewer testified that the most recent minimum data set (MDS) assessment (dated July 13, 2023) provided that Appellant requires supervision level of assistance with this task. Exhibit 4 at 271. Appellant has some use of her upper extremities, though impaired, which means that she should be able to perform some of the feeding task. Additionally, as outlined in the time-for-task guidelines, time approved for assistance with eating is only the time for the PCA to physically assist the member with the task, and not time that the member lifts the utensil or cup, or the time the member is chewing. *Id.* at 137.

Appellant testified that she has trigeminal neuralgia, a condition that causes pain in the face and mouth. Appellant also has oropharyngeal dysphagia, or difficulty swallowing. Appellant is left-dominant, but has to try to eat on her right side. This is difficult, as it causes Appellant to bite on her lip and causes nodules. When Appellant experiences pain or numbness during eating, it is a safety issue. Appellant attested that she is having more difficulty lifting a mug or silverware due to weakness. Exhibit 6 at 3. Appellant's doctor wrote that Appellant's trigeminal neuralgia causes Appellant to develop sharp nerve pain and temperature sensitivity, when she chews on the left side. This causes the task of eating to take longer. Exhibit 9 at 8. Appellant's PCA attested that she often needs to feed Appellant with a fork or spoon or lift a water bottle to Appellant's mouth. *Id.* at 3. Appellant's PCA testified that she needs to monitor Appellant and physically assist her with every bite or drink. *Id.*

The parties did not discuss bowel care at hearing. CCA approved the PCMA's request of 210 minutes per week, broken down as 15 minutes, 2 times per day, 7 days per week. *Id.* at 9.

Appellant's attorney pointed out that after the 2022 hearing, the parties agreed to 315 minutes per week, or 15 minutes, 3 times per day, 7 days per week. *Id.*, Exhibit 8 at 4. Appellant's attorney argued that 315 minutes is necessary given the frequency of Appellant's need for bowel care. Appellant attested that she has at least three bowel movements per day. Exhibit 6 at 2.

For prefilling the medication planner, Appellant seeks 40 minutes per week. CCA had denied time for this task as records had indicated that Appellant was not using a pill box. However, the CCA reviewer testified that he could approve 20 minutes weekly for this task, the standard amount. Exhibit 4 at 133. The CCA reviewer acknowledged the large number of medications noted in Appellant's documentation and the MDS assessment.

Appellant's attorney argued that CCA may have misread a medical note that indicated Appellant does not use a medication planner because it would not fit her medications. Though Appellant does not use a medication "planner," her PCA fills two large pill trays for all of her medications. Appellant's PCA attested that both trays need to be filled once per week, which takes 20 minutes for each tray (40 minutes per week in total). Exhibit 9 at 3. The parties had agreed on 40 minutes weekly at the 2022 hearing. Exhibit 4 at 9.

For medication administration, Appellant seeks 399 minutes weekly, broken down for oral medications (3 minutes, 9 times per day, 7 days per week = 189 minutes) and topical medications (15 minutes, 2 times per day, 7 days per week = 210 minutes). Exhibit 8 at 4. The PCMA requested, and CCA approved, 210 minutes, broken down as 5 minutes, 6 times per day, 7 days per week. Exhibit 4 at 8. For oral medications, Appellant's PCA attested that Appellant must take medications slowly and carefully to avoid choking and can only take three pills at a time. Appellant takes medications about every two hours. Exhibit 9 at 3. For topical medications, Appellant's attorney argued that Appellant needs medicated lotion twice per day for her skin condition, hidradenitis suppurativa. Appellant's sensitivity causes the application to be painful, and therefore it takes 15 minutes each time. Exhibit 8 at 4. For Appellant's non-medicated lotion, the parties agreed that 5 minutes, 1 time per day, 7 days per week was sufficient. *Id.* at 3, Exhibit 4 at 8.

For meal preparation and cleanup, Appellant seeks 665 minutes, broken down for daily meals as 30 minutes for breakfast, 30 minutes for lunch, and 35 minutes for dinner. This was the amount agreed to by the parties at the 2022 hearing. The PCMA requested, and CCA approved, 420 minutes, broken down as 10 minutes for breakfast, 20 minutes for lunch, and 30 minutes for dinner. Exhibit 4 at 195. CCA's guideline allows for 665 minutes per week for an individual with total dependence. *Id.* at 139.

Appellant's attorney argued that Appellant needs more time for meal preparation and cleanup because she has specific dietary needs, most particularly, that she must eat soft foods due to her choking risk. Exhibit 8 at 5. Appellant's PCA attested that Appellant is not safe in the kitchen and therefore cannot participate in meal preparation. Exhibit 9 at 3. Appellant attested that because she is at wheelchair height, she cannot cook at the stove safely. Appellant's weakness causes her to drop things, so she cannot take anything out of the oven. Appellant is not able to use a knife to

cut meat or vegetables. Exhibit 6 at 4.

For laundry, Appellant seeks 120 minutes per week, the amount agreed to at the 2022 hearing. The PCMA requested 90 minutes per week, which CCA approved. Exhibit 4 at 10. The CCA nurse reviewer testified that 90 minutes is the maximum according to the time-for-task standards.

Appellant testified that everything gets soiled easily due to incontinence, despite using pads. Appellant estimated that her sheets are washed twice a week, and overall, she needs assistance with 3 or 4 loads of laundry per week. Appellant does not have laundry machines in her unit, but there is laundry in her apartment building, and machines are often taken or not working. Appellant cannot assist with laundry due to her inability to bend or lift. Appellant attested that she cannot fold items due to her hand being in a cast, and she cannot iron because she drops heavy things. Exhibit 6 at 4.

The requests for equipment maintenance and PCA paperwork are grouped together under “special needs.” CCA testified that at the 2022 hearing, the parties agreed to 262 minutes per week, though these items were erroneously placed in a different category.

For equipment cleaning and maintenance, Appellant seeks 120 minutes per week. The PCMA requested 420 minutes per week, and CCA approved 60 minutes per week. Appellant’s PCA testified that she spends between 45 minutes and an hour, twice a week, to clean and maintain all of Appellant’s equipment. This includes her wheelchair and electric wheelchair, shower bench, adjustable bed, and catheter supplies. Appellant’s equipment can get soiled and there are also minor repairs, such as tightening screws.

For PCA paperwork, Appellant seeks 30 minutes per week. The PCMA requested 45 minutes weekly. CCA approved 20 minutes. Appellant testified that she has 4 PCAs and Appellant sits with each PCA each week to ensure that the paperwork is correct. Appellant keeps these records separate for each PCA to ensure privacy. Appellant has double vision and cataracts and therefore, needs assistance with this task. Exhibit 6 at 5. Appellant estimated that she sits with each PCA for 15 minutes to go over their timesheets.

Findings of Fact

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

1. Appellant is enrolled in CCA’s OneCare program.
2. Appellant is in her [REDACTED] with medical history including but not limited to lupus, hidradenitis suppurativa, osteoporosis, alopecia, and paraplegia, and is wheelchair-dependent. Exhibit 4 at 95-96.

3. In 2022, CCA and Appellant agreed to 117.25 PCA hours per week of PCA assistance after a fair hearing.
4. On March 26, 2024, Appellant was re-evaluated for PCA services by Northeast Arc, the PCMA, resulting in a request for an increase to 134.75 hours (120.75 day/evening hours and 14 night hours). *Id.* at 1.
5. On April 15, 2024, CCA issued a partial approval, approving 95.75 hours per week. *Id.* at 1, 109.
6. Appellant filed a Level I appeal on May 29, 2024.
7. On June 11, 2024, CCA denied the Level I appeal and notified Appellant in writing on June 20, 2024. Exhibit 1.
8. Appellant filed a timely request for hearing on July 1, 2024 and was eligible for 134.75 hours through September 1, 2024 or the date of the hearing decision.
9. For PROM, Appellant seeks 840 minutes per week, broken down as 15 minutes, 2 times per day, 7 days per week for each of her four limbs. This amount of time was agreed to at the 2022 hearing. Exhibit 8 at 2.
10. Appellant's rheumatologist wrote in a medical letter that it is "imperative that [Appellant] continue aggressive regular ongoing physical therapy to prevent progression of weakness in her muscles." Exhibit 9 at 6.
11. CCA approved 420 minutes per week, broken down as 15 minutes, 1 time per day, 7 days per week for each of the four limbs. Exhibit 4 at 8.
12. For nail care, Appellant seeks 60 minutes per week to cut, file, polish, and use stick-on nails.
13. CCA approved 30 minutes per week, which was the same as was agreed to at the 2022 hearing.
14. For shaving, Appellant seeks 55 minutes of assistance with shaving per week. Exhibit 8 at 3. Appellant's PCMA requested 30 minutes per week for shaving. Exhibit 4 at 8.
15. After the 2022 hearing, the parties had agreed on 35 minutes per week. *Id.*
16. For shaving, CCA approved 25 minutes per week. *Id.*

17. Appellant has hidradenitis suppurativa, which increases skin sensitivity and causes infections in the armpit and groin area. Exhibit 9 at 3.
18. For eating, Appellant seeks 420 minutes per week, broken down as 20 minutes, 3 times per day, 7 days per week. The parties agreed to this amount at the 2022 hearing.
19. Appellant's PCMA requested 315 minutes, broken down as 15 minutes, 3 times per day, 7 days per week. Exhibit 4 at 8. The PCMA wrote that Appellant requires maximum assistance for eating and drinking. *Id.* at 189-190.
20. CCA approved 210 minutes per week, or 10 minutes, 3 times per day, 7 days per week for PCA assistance with eating. *Id.* at 8.
21. Appellant requires physical assistance and supervision during the eating task. Exhibit 9 at 3.
22. For bowel care, Appellant seeks 315 minutes (15 minutes, 3 times per day, 7 days per week), the amount agreed to at the 2022 hearing.
23. CCA approved 210 minutes per week (15 minutes, 2 times per day, 7 days per week). Exhibit 4 at 9.
24. Appellant attested that she has at least three bowel movements per day. Exhibit 6 at 2.
25. For prefilling the medication planner, Appellant seeks 40 minutes per week. Appellant testified that she needs her medications to be placed in two large trays every week.
26. CCA approved no time for medication prefill, but testified that 20 minutes is standard per week. *Id.* at 133.
27. For medication administration, Appellant seeks 399 minutes weekly:
 - a. For oral medications, Appellant seeks 3 minutes, 9 times per day, 7 days per week for a total of 189 minutes. Exhibit 8 at 4.
 - b. Appellant's PCA attested that Appellant must take medications slowly and carefully to avoid choking and can only take three pills at a time. Appellant takes medications about every two hours. Exhibit 9 at 3.
 - c. For topical medications, Appellant seeks 15 minutes, 2 times per day, 7 days per week for a total of 210 minutes. Exhibit 8 at 4.

- d. Appellant needs medicated lotion twice per day for her hidradenitis suppurativa. Appellant's sensitivity causes the application to be painful. Exhibit 8 at 4.
 - e. For Appellant's non-medicated lotion, the parties agreed that 5 minutes, 1 time per day, 7 days per week was sufficient. *Id.* at 3, Exhibit 4 at 8
28. For medication administration, the PCMA requested, and CCA approved, 210 minutes, broken down as 5 minutes, 6 times per day, 7 days per week. Exhibit 4 at 8.
29. For meal preparation and cleanup, Appellant seeks 665 minutes, broken down for daily meals as 30 minutes for breakfast, 30 minutes for lunch, and 35 minutes for dinner. This was the amount agreed to by the parties at the 2022 hearing.
30. CCA approved 420 minutes, broken down as 10 minutes for breakfast preparation and cleanup, 20 minutes for lunch preparation and cleanup, and 30 minutes for dinner preparation and cleanup. Exhibit 4 at 195.
31. CCA's time-for-task guideline allows for 665 minutes per week for meal preparation and cleanup for an individual with total dependence. *Id.* at 139.
32. Appellant is not able to participate in meal preparation and cleanup given her weakness, and for safety reasons.
33. Appellant requires a soft foods diet due to her trigeminal neuralgia.
34. For laundry, Appellant seeks 120 minutes per week, the amount agreed to at the 2022 hearing.
35. CCA approved 90 minutes per week, which CCA approved. Exhibit 4 at 10.
36. Appellant's laundry is located outside of her unit.
37. Appellant is incontinent and requires assistance with 3-4 loads of laundry per week. Appellant is not able to participate in laundry.
38. For equipment cleaning and maintenance, Appellant seeks 120 minutes per week, though the PCMA requested 420 minutes per week.
39. CCA approved 60 minutes per week.
40. Appellant's PCA testified that she spends between 45 minutes and an hour, twice a week, to clean and maintain all of Appellant's equipment. This includes her wheelchair and

electric wheelchair, shower bench, adjustable bed, and catheter supplies. Appellant's equipment can get soiled and there are also minor repairs, such as tightening screws.

41. For PCA paperwork, Appellant seeks 30 minutes per week. The PCMA requested 45 minutes weekly.

42. CCA approved 20 minutes for assistance with PCA paperwork.

43. Appellant testified that she has 4 PCAs and Appellant sits with each PCA for 15 minutes each week to ensure that the paperwork is correct and information is kept private. Appellant has double vision and cataracts and therefore, needs assistance with this task. Exhibit 6 at 5.

Analysis and Conclusions of Law

MassHealth members younger than 65 years old, except those excluded under 130 CMR 508.004, must enroll in the Primary Care Clinician (PCC) Plan or a MassHealth-contracted MCO available for their coverage type. 130 CMR 450.117(A) and 130 CMR 508.002. MassHealth managed care options include an integrated care organization (ICO) for MassHealth Standard and CommonHealth members who also meet the requirements for eligibility set forth under 130 CMR 508.007. Members who participate in an ICO obtain all covered services through the ICO. 130 CMR 450.117(K).

A member may enroll in an ICO if he or she meets the following criteria:

(A) Eligibility.

(1) In order to be eligible to enroll in an integrated care organization (ICO), a MassHealth member must meet all of the following criteria, and may not be enrolled or concurrently participate in any of the programs or plans listed in 130 CMR 508.007(F):

- (a) be 21 through 64 years of age at the time of enrollment;
- (b) be eligible for MassHealth Standard as defined in 130 CMR 450.105(A): *MassHealth Standard* or MassHealth CommonHealth as defined in 130 CMR 450.105(E): *MassHealth CommonHealth*;
- (c) be enrolled in Medicare Parts A and B, be eligible for Medicare Part D, and have no other health insurance that meets the basic-benefit level as defined in 130 CMR 501.001: *Definition of Terms*; and
- (d) live in a designated service area of an ICO.

130 CMR 508.007.

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). ICO members may appeal a determination made by an ICO to the Board of Hearings pursuant to 130 CMR 508.010.

CCA's One Care Plan is a MassHealth ICO. CCA's One Care Member Handbook, pertinent pages included as Exhibit 5, provides which services the plan covers, including PCA services. Exhibit 5 at 91. Prior authorization is required for PCA services. *Id.*

Pursuant to 130 CMR 422.403(C), MassHealth will pay for PCA services for members appropriately cared for at home when the following conditions are met:

- (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 ADLs and IADLs without physical assistance.
- (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.

Pursuant to 130 CMR 450.204(A), a service is medically necessary if it is:

- (1) it is reasonably calculated to prevent, diagnose, prevent the worsening of, alleviate, correct, or cure conditions in the member that endanger life, cause suffering or pain, cause physical deformity or malfunction, threaten to cause or to aggravate a handicap, or result in illness or infirmity; and
- (2) there is no other medical service or site of service, comparable in effect, available, and suitable for the member requesting the service, that is more conservative or less costly to the MassHealth agency. Services that are less costly to the MassHealth agency include, but are not limited to, health care reasonably known by the provider, or identified by the MassHealth agency pursuant to a prior-authorization request, to be available to the member through sources described in 130 CMR 450.317(C), 503.007, or 517.007.

MassHealth covers assistance with the following tasks under the PCA program:

422.410: 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.

(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.

(C) Determining the Number of Hours of Physical Assistance. In determining the number of hours of physical assistance that a member requires under 130 CMR 422.410(B) for IADLs, the PCM 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.

Under 130 CMR 422.412(C), MassHealth does not cover as part of the PCA program “assistance provided in the form of cueing, prompting, supervision, guiding, or coaching.” However, CCA’s PCA program “include Personal Assistance Services, such as cueing and monitoring.” Exhibit 5 at 91.

Here, it is undisputed that Appellant qualifies for PCA services. The issues in dispute that remain after hearing are the amount of time for PCA services that is medically necessary to assist Appellant with the ADLs of PROM, nail care, shaving, eating, bowel care, and medication administration and prefill; and the IADLs of meal preparation, laundry, equipment maintenance, and PCA paperwork.

For PROM, this appeal is approved for 840 minutes per week. Appellant offered a medical letter from her rheumatologist supporting the need for PCA assistance with PROM to continue, and CCA did not provide a satisfactory explanation as to why this time was reduced by half from what had been approved at the 2022 hearing.

For nail care, this appeal is denied. CCA approved 30 minutes weekly for nail care, which exceeds the time-for-task standard of care for grooming tasks in their entirety. Part of the time Appellant allotted for nail care included polishing and press-on nails, which does not appear to serve a medical purpose. Appellant has not demonstrated that more than 30 minutes to care for her nails would be medically necessary.

For shaving, this appeal is approved in part for 30 minutes of assistance per week. CCA approved 25 minutes weekly for shaving, which equals the time-for-task standard of care for grooming tasks in their entirety. While the records establish that Appellant needs more time than is ordinarily required due to her sensitive skin, Appellant did not establish with enough specificity how much time is spent on each area or how frequently the task is performed. Therefore, the request for 30 minutes as requested by the PCMA is approved.

For eating, this appeal is approved. CCA based its decision to reduce eating to 210 minutes per week on the MDS assessment dated July 13, 2023 that determined that Appellant only requires supervision with this task. The PCMA wrote that Appellant requires maximum assistance and requested 315 minutes per week for this task. Appellant’s evidence indicated that Appellant is largely dependent on her PCA to feed her with a spoon and fork or lift a bottle of water to her mouth. Some of the time Appellant seeks is for supervision for safety purposes, which MassHealth’s regulations do not cover pursuant to 130 CMR 422.412(C). However, CCA’s manual allows PCA assistance time for cueing and monitoring. Therefore, 420 minutes is approved for

eating.

For bowel care, this appeal is approved. CCA offered no basis for reducing the time approved for bowel care. Appellant's undisputed evidence is that she has at least three bowel movements per week. Therefore, this appeal is approved for 315 minutes per week for bowel care.

For medication planner pre-fill, this appeal is approved. Appellant's undisputed evidence is that she uses two medication trays once per week, and CCA acknowledged the large quantity of medications Appellant takes per week. Therefore, 40 minutes weekly is approved for prefilling the medication trays.

For oral medication administration, this appeal is approved in part to allow 2 minutes, 9 times per day, 7 days per week (126 minutes). Appellant's evidence established that she has to take medications three pills at a time every two hours. Therefore, Appellant's frequency of 9 times per day is approved. However, given the time approved for medication prefill and Appellant's evidence about how she only takes a couple of pills at a time, it is unconvincing that the time for each episode should exceed 2 minutes. For topical lotions, this appeal is approved in part to allow 10 minutes, 2 times per day, 7 days per week (140 minutes). The evidence shows that the parties had agreed that it takes 5 minutes to apply Appellant's non-medicated lotions, making 15 minutes per episode of applying medication lotion excessive. Accordingly, for medication administration, a total of 266 minutes is approved per week.

For meal preparation and cleanup, this appeal is approved. Appellant's evidence is that she cannot participate in meal preparation and cleanup at all due to her functional capacity and from a safety standpoint. Appellant also requires a special diet due to her medical conditions. The 665 minutes requested is in line with the time-for-task guideline and was agreed to at the 2022 hearing.

For laundry, this appeal is approved. Appellant established that she has incontinence, causing greater than average laundry loads per week. Additionally, laundry is not located in Appellant's unit. Finally, Appellant is not able to perform or assist with this task. Therefore, 120 minutes per week is approved.

For equipment maintenance, this appeal is approved in part for 90 minutes per week, in consideration of Appellant and her PCA's testimony of how frequently Appellant's equipment requires cleaning and maintenance.

For PCA paperwork, this appeal is approved for 30 minutes, given the number of PCAs Appellant has and the need to keep the task separate for each PCA for worker confidentiality.

Order for CCA

Remove aid pending as of the date of this decision. Of the 3064 minutes of requested assistance that remained in dispute after hearing, approve 2806 minutes per week, broken down as follows:

- ADLs
 - Passive range of motion (PROM): 840 minutes
 - Nail care: 30 minutes
 - Shaving: 30 minutes
 - Eating: 420 minutes
 - Bowel care: 315 minutes
 - Medication administration: 226 minutes
 - Medication prefill: 40 minutes
- IADLs
 - Meal preparation: 665 minutes
 - Laundry: 120 minutes
 - Equipment maintenance: 90 minutes
 - PCA paperwork: 30 minutes

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, or 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.

Cynthia Kopka
Hearing Officer
Board of Hearings

cc: [REDACTED]

cc: MassHealth Representative: ICO Commonwealth Care Alliance, Attn: Nayelis Guerrero, 30

Winter Street, Boston, MA 02108