

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved in part; Dismissed in part; Denied in part	Appeal Number:	2414841
Decision Date:	2/25/2025	Hearing Date:	12/16/2024
Hearing Officer:	Casey Groff	Record Closed:	12/23/2024

Appearances for Appellant:



Appearances for ICO:

Cassandra Horne, Operations Manager;
Appeals & Grievances, CCA
Jeremiah Mancuso, RN, Appeals & Grievances,
CCA



*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; Dismissed in part; Denied in part	Issue:	Managed Care; ICO; Denial of Level 1 Appeal; PCA services
Decision Date:	2/25/2025	Hearing Date:	12/16/2024
ICO's Reps.:	Cassandra Horne; Jeremiah Mancuso, RN	Appellant's Reps.:	<i>Pro Se</i> ; Attorney
Hearing Location:	Board of Hearings, Remote	Aid Pending:	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 9/25/2024, the Commonwealth Care Alliance (CCA), an integrated Care Organization (ICO) and managed care contractor for MassHealth, notified Appellant that it denied his level 1 appeal through which he challenged CCA's modification of requested personal care attendant (PCA) services. *See* Exhibit 1. Appellant filed a timely appeal with the Board of Hearings (BOH) on 9/25/24 but did not reference the notice/action prompting appeal. *See* Exhibit 2. On 9/27/24, BOH dismissed the request due to failure to demonstrate an appealable action. *See* Exhibit 3; 130 CMR §§ 610.034, 610.035. On 11/19/24, Appellant, through counsel, provided BOH with a copy of the 9/25/24 CCA notice. *See* Exh. 3. As an ICO's adverse coverage determination is valid grounds for appeal, BOH vacated the dismissal and scheduled a hearing for 12/16/24.¹ *See* Exhibit 4; 130 CMR 610.032. At the conclusion of the hearing, the record was left open through 12/23/24 for counsel to submit a post-hearing memorandum. *See* Exhibits 10-11.

¹ Managed care contractors, such as an ICO, must send written notice to its members of any coverage determination that affects the member. *See* 130 CMR 508.009. An ICO has 45 days to resolve any internal appeals regarding the original coverage decision. *See* 130 CMR 508.010. If the ICO denies a member's internal appeal, in whole or in part, the member may appeal to BOH. *See* 130 CMR 610.018; *see also* M.G.L. c. 118E, § 48, 130 CMR 610.011.

Action Taken by ICO

Through a notice dated 9/25/24, CCA, acting on behalf of MassHealth as an ICO, denied Appellant's level 1 internal appeal and upheld its initial determination to modify Appellant's request for PCA services.

Issue

The appeal issue is whether CCA correctly upheld its decision to modify Appellant's request for PCA services.

Summary of Evidence

Representatives from CCA appeared at the hearing via telephone and presented the following information through testimony and documentary evidence: The Appellant is between the ages of 21 and 64 and is enrolled in an Integrated Care Organization (ICO) through the Commonwealth Care Alliance (CCA), also known as a One Care program. As an ICO, CCA is responsible for managing Appellant's Medicaid/MassHealth benefits.

On 4/23/24, CCA received an initial prior authorization (PA) request from the [REDACTED] a personal care management (PCM) agency, on behalf of Appellant, seeking a total of 35.75 hours per week (comprised of 21.75 daytime and 14 nighttime hours) of personal care attendant (PCA) services. *Id.* at 24-25. The PCM agency submitted the request following an in-home occupational therapy (OT) and nursing assessment of Appellant to determine his level of need for assistance in performing activities of daily living (ADLs) and instrumental activities of daily living (IADLs). *Id.* at 28.

According to the PA request, Appellant has diagnoses that include diabetes, high blood pressure, high cholesterol, tendinitis in his left arm with bilateral spasms, muscle spasms in the right leg, chronic obstructive pulmonary disease (COPD), shortness of breath with moderate exertion, impaired functional mobility, non-surgical abdominal hernia with severe pain, and an inability to bend at the waist. *Id.* at 84. According to CCA's patient summary, as well as medical records Appellant submitted in advance of hearing, Appellant has additional diagnoses that include but are not limited to, unsteady gait, full incontinence of bowel, bladder incontinence, continuous leakage, bipolar disorder, memory deficit, intellectual disabilities, congenital hydrocephalus, anxiety, osteoarthritis, and polycythemia. *Id.* at 5-6; *see also* Exh. 8. at 2-29. The PCM agency noted that Appellant lives in a two-level town home with his minor teenage child.

On 5/6/24, CCA notified Appellant that it modified his PA request by partially approving a total of

18 hours per week of daytime PCA services and that it denied his request for nighttime hours. *See* Exh. 6, p. 7. The decision applied to his PCA services for a one-year period ending 4/30/25. *Id.* According to the notice, the partial authorization was based on CCA's modification and/or denial of Appellant's request for assistance with passive range of motion exercises, grooming/nailcare, nighttime toileting assistance, housekeeping, and meal preparation/snacks. *Id.*

On 8/27/24, Appellant filed a request for an internal level 1 appeal of the coverage determination. This prompted a CCA medical director - a physician board certified in physical medicine and rehabilitation - to review all relevant documentation, including the 4/9/24 PCA evaluation, a 11/20/23 physical therapy assessment, CCA's medical necessity guideline (MNG) #80, and MassHealth time for task standards. On 9/25/24, CCA notified Appellant that it denied his level 1 appeal thereby upholding its decision to partially approve his request for PCA services at 18 hours per week. *Id.* at 185.

At the hearing, the parties addressed the individual ADL's and IADL's that were modified, as follows:

Passive Range of Motion

Under the ADL category of passive range of motion (PROM), Appellant requested 5 minutes 2 times daily for each lower extremity (5x2x7) x2, for a total of 140 minutes of PCA assistance per week. *Id.* at 87. The PCM agency noted, in support of the request, that Appellant requires PROM exercises to improve his bilateral muscle spasms, leg pain, and weakness. *Id.*

CCA denied this request in its entirety on the basis that Appellant is capable of doing his own active exercises and is receiving, or can receive, covered physical therapy services. At hearing, CCA explained that PROM exercises are intended for individuals who are unable to move a joint on their own, such as individuals who are paralyzed, and therefore require another person to move the joint for them. CCA explained that the documentation shows that Appellant is capable of moving his extremities as evidenced by the PCM agency's finding that Appellant was independent with mobility and transfers with use of a cane. *Id.* at 85. The PA request also states that Appellant "will be attending physical therapy as an outpatient to help increase range of motion and reduce muscle spasms." *Id.* at 85.

Appellant and his attorney appeared at the hearing telephonically. Appellant testified that due to an accident in which he fell off a ladder one year ago, he has experienced worsening leg spasms, particularly in the right leg, which occur multiple times per day, with each spasm lasting around 30 minutes. Appellant testified that his PCA currently performs PROM exercises which helps to reduce pain. Prior to the hearing, Appellant submitted medical records that reflected his ongoing medical conditions, as summarized above. *See* Exhs. 8 and 9. According to a 2/2/24 physician encounter, Appellant's primary complaint was listed as muscle spasms in his legs. *Exh. 8.* at 7. Additionally, during a doctor's visit on 4/9/24, Appellant reported that his

knee was very painful, that he could not stand for extended periods of time, and he requested a walker. *Id.* at 8. Appellant testified that he currently has a walker. In addition, Appellant submitted into evidence an affidavit from his PCA, signed and dated 12/12/24, which states, in relevant part, the following:

21. [Appellant's] leg pain occurs all the time. When he is sitting, he complains of pain and numbness in his right leg. His leg pain and spasms have worsened since I have worked with him.
22. I believe stretching and moving his legs will help his leg pain.
23. [Appellant] cannot lift or stretch his legs without additional assistance due to his abdominal pain, leg pain, and breathing problems. If he engages in range of motion exercises, I have to help him.

Id. at 28.

Grooming/Nailcare

Under the ADL category of grooming, Appellant requested 5 minutes per day 7 days per week (5x1x7) or 35 minutes per week for nailcare assistance. *Id.* at 89. Also under grooming, Appellant requested skin care assistance, which CCA approved. With respect to both requested grooming tasks, the PCM agency found that Appellant required moderate assistance due to his "inability to bend at waist with abdominal hernia and chronic pain." *Id.* CCA found that 35 minutes per week was excessive for nailcare and was not supported by evidence of medical necessity. CCA approved 10 minutes per week for nailcare in accordance with MassHealth's time-for-task tool, a copy of which was submitted into evidence. *Id.* at 36.²

Appellant, with counsel, testified that his PCA cuts his nails every other day because they are so thick. In her affidavit, Appellant's PCA asserted that Appellant has extremely thick toenails, which require more time to cut than average toenails; that she applies cream to his nails and feet; she checks for abnormalities and skin irritants because he cannot see well and cannot bend to reach his lower body; and that she spends at least 20 minutes a week aiding Appellant with his nailcare, inspecting his skin, and applying cream to his lower body. *Id.* at 27.

Nighttime Toileting Assistance

Under the ADL category of toileting, Appellant requested 2 minutes each night (2x1x7) for assistance with bladder care.³ *Id.* at 92. The PCM agency also requested daytime assistance for

² CCA also testified that because Appellant is diabetic, there are certain aspects of nail care that only a podiatrist should perform, due to potential complications of diabetic wounds. In response to this statement, Appellant testified that he has never been advised, from a clinical standpoint, that only a specialist can provide nail care, or that his PCA should not be performing this task.

³ CCA explained that if an individual is approved for any nighttime PCA care, it will authorize, at a minimum, 2 hours per

both bladder and bowel care toileting activities, which were approved by CCA in full at 5x4x7 and 5x1x7, respectively. Under the relevant “comments” section, the PCM agency noted that Appellant required minimal assistance with toilet hygiene and clothing management, as well as moderate assistance with transfers to the bathroom due to increased fall risk with leg spasms, severe chronic leg pain, abdominal hernia, and bilateral weakness and decreased range of motion. *Id.* The PCM agency noted that Appellant requires additional assistance to transfer up/down the stairs to access the second-floor bathroom during the daytime, but that he uses a downstairs commode at night. *Id.*

CCA denied the request for nighttime toileting assistance, based in part, on documentation indicating that he slept downstairs and used a bedside commode to reduce his risk for falling. CCA again noted that Appellant was assessed as being independent for mobility and transfers, thereby indicating he would not require assistance getting out of bed to use the toilet and/or commode.

In response, Appellant testified that, contrary to what the PCM agency documented, he slept upstairs and used the 2nd floor bathroom at nighttime, whereas during the daytime he used the downstairs commode to avoid the stairs. Appellant explained that the second floor is too small to accommodate a commode or walker. He testified that he is incontinent of both bladder and bowel and has a need to use the bathroom multiple times per night. He has weakness in his right knee and thigh, and experiences constant leg pain throughout the night. Leg spasms make him temporarily immobile. If he is unable to get to the toilet/commode in time, he will have accidents and soil himself. Appellant testified that he has bed pads and medical gloves. He has tried diapers, but they do not work. Appellant testified that due to his hernia, he still requires assistance getting out of bed even when not having an active muscle spasm. He also still requires assistance with cleaning himself, hygiene, and using the toilet or commode as he does during the day. Appellant and counsel reiterated that the same level of assistance needed during the daytime is needed at night and thus CCA’s authorization of daytime assistance only was unreasonable.

In her written affidavit, Appellant’s PCA stated, in relevant part, the following:

11. [Appellant] sleeps in his bedroom on the second floor.
12. [Appellant] cannot get out of bed into a standing position without assistance due to his leg pain and limited mobility.
13. He requires assistance to transfer from the bed to the bathroom at night because he cannot use his walker upstairs.
14. He requires assistance walking to the bathroom, using the toilet, dressing his lower body after use, and returning to bed.
15. Toileting assistance takes about 10 minutes each night.

night or 14 hours per week. Although the request is for two minutes per week, if approved, Appellant would effectively receive 2 hours per night just for toileting assistance, which CCA argued was excessive.

16. [Appellant] has regular leg spasms which make him fall and fall out of bed. [Appellant] cannot get off the floor without assistance due to his limited mobility.

17. If I am not there to help [Appellant] to the bathroom at night, he will defecate himself; this happens least two to three times a week. He cannot clean this on his own and requires assistance. If I do not assist him he will be left on the floor with his stool or urine.

....

20, [Appellant's] bedroom is not large enough to fit a commode. Even if [Appellant] was to put his commode in his bedroom, he cannot get out of bed without assistance. Further, he cannot control his bowel and urine movements at night when he endures a leg spasm.

See Exh. 8, p. 27.

Appellant submitted medical records from a [REDACTED] 24 encounter with his primary care physician, in which Appellant reported that he fell out of bed when he got up to use the bathroom and that his "leg locked." See Exh. 9, p. 11. Appellant reported that he was unable to make it to the bathroom after falling and soiled himself with urination. *Id.* at 12. It was noted that Appellant had pain in the right side of his calf muscle. *Id.*

Meal Preparation/Snacks

Next, the parties addressed the modifications made to two IADL categories: meal preparation and housekeeping. Appellant sought 5 minutes per day (5x1x7) or 35 per week for assistance preparing snacks. *Id.* at 95. Under the category of meal preparation, Appellant requested an additional 60 minutes per day (420 minutes per week) for assistance preparing three daily meals, which was approved by CCA. CCA denied the request for assistance preparing snacks on the basis that there was inadequate documentation to show medical necessity. Pursuant to a discussion at hearing, CCA overturned the denial and approved in full Appellant's request for snack assistance at 35 minutes per week, bringing the total allotted time for meal preparation to 455 minutes per week, and thereby resolving this appeal issue.

Housekeeping

Lastly, Appellant requested 45 minutes for housekeeping. *Id.* at 96. CCA partially approved the request, allotting 30 minutes of PCA assistance for this task. After discussion at hearing, CCA agreed to approve the time for housekeeping, as requested at 45 minutes per week, thereby resolving this modification.

Following the hearing, counsel for Appellant submitted a post-hearing memorandum, through which Appellant primarily argued that CCA's denial of nighttime toileting assistance was

erroneous and inconsistent with the governing authority and guidelines. See Exh. 11. In the memorandum, counsel highlighted the various portions of the medical record and testimony which, she argued, demonstrated that Appellant cannot use a bedside commode at night and requires transferring assistance to the bathroom; that program regulations designate toileting transfers as a separate ADL category from regular transfers, and that Appellant's assessed needs in one category should not impact the other; that Appellant cannot complete transfers not only due to leg spasms, but also chronic pain, a hernia, and other physical limitations; that Appellant's toileting needs also include the need for assistance with hygiene and clothing management tasks that he cannot complete independently; and that the MassHealth's time for task tool supports Appellant's request for nighttime toileting assistance. *Id.* Although Appellant had not accepted any of the modifications at hearing, it was noted in the post-hearing memorandum that "Appellant concedes that a denial of increase in nailcare time and PROM is appropriate considering the current evidence available." See Exh. 11, p. 1.

Findings of Fact

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

1. Appellant is between the ages of 21 and 64 and is enrolled in an CCA's ICO program "One Care."
2. Appellant has diagnoses that include diabetes, high blood pressure, high cholesterol, tendinitis in his left arm, bilateral leg spasms, muscle spasms in the right leg, COPD, shortness of breath, impaired functional mobility, non-surgical abdominal hernia with severe pain, unsteady gait, full incontinence of bowel, bladder incontinence, continuous leakage, bipolar disorder, memory deficit, intellectual disabilities, congenital hydrocephalus, anxiety, osteoarthritis, and polycythemia.
3. On 4/23/24, CCA received an initial PA request, seeking, on behalf of Appellant, authorization for 35.75 hours per week of PCA services, comprised of 21.75 daytime and 14 nighttime hours.
4. On 5/6/24, CCA notified Appellant that it modified his PA request by partially approving a total of 18 hours per week of PCA services, based on modifications made to the time for assistance with passive range of motion exercises, grooming/nailcare, nighttime toileting assistance, housekeeping, and meal preparation/snacks.
5. On 9/25/24, pursuant to Appellant's request for a level 1 appeal, CCA notified Appellant it affirmed its partial authorization of requested PCA hours at 18 hours per week.
6. Under the ADL category of passive range of motion, Appellant requested 5 minutes 2

times daily for each lower extremity (5x2x7) x2, for a total of 140 minutes of PCA assistance per week.

7. Despite any limitations with Appellant's use of his lower extremities, he is capable of moving all joints independently.
8. Under the ADL category of grooming, Appellant requested 5 minutes per day 7 days per week (5x1x7) or 35 minutes per week for nailcare assistance.
9. CCA approved 10 minutes per week for nailcare in accordance with MassHealth's time-for task tool for someone that requires moderate assistance with grooming tasks.
10. Under the ADL category of toileting, Appellant requested 2 minutes each night (2x1x7) for assistance with bladder care.
11. The PCM agency also requested daytime assistance for both bladder and bowel care toileting activities, which were approved by CCA in full at 5x4x7 and 5x1x7, respectively.
12. Appellant requires minimal assistance with toilet hygiene and clothing management, as well as moderate assistance with transfers to the bathroom due to increased fall risk with leg spasms, severe chronic leg pain, abdominal hernia, and bilateral weakness and decreased range of motion.
13. Appellant uses a downstairs commode for daytime toileting episodes so that he does not have to use the stairs to access the second-floor bathroom, which is the only bathroom in his home.
14. At night, Appellant uses the bathroom for toileting episodes because his bedroom, which is on the 2nd floor, is too small to accommodate a commode or walker.
15. Appellant requires the same level of assistance for nighttime toileting as he does during the day.
16. Appellant sought 5 minutes per day (5x1x7) or 35 per week for assistance preparing snacks.
17. CCA initially denied this request, but at hearing, agreed to approve the time requested for snack/meal preparation to 35 minutes per week, bringing the total allotted time for meal preparation to 455 minutes per week.
18. Appellant requested 45 minutes per week for housekeeping assistance.
19. Through its level 1 appeal determination, CCA upheld its partial authorization of 30

minutes per week for housekeeping; however, at hearing, CCA agreed to approve Appellant's request in full at 45 minutes per week.

Analysis and Conclusions of Law

Appellant is a MassHealth beneficiary enrolled in an Integrated Care Organization (ICO), operated by the Commonwealth Care Alliance (CCA), which is also referred to as CCA's One Care program. As an ICO, CCA has contracted with state and federal Medicaid and Medicare agencies to offer "dual eligible" enrollees a comprehensive network of medical, behavioral-health care, and long-term services.⁴ See 130 CMR 610.004. Once enrolled, the ICO is responsible for providing its members with the full continuum of Medicare and MassHealth covered services. See 130 CMR 610.004. Pursuant to CCA's 2024 One Care Member Handbook, "covered MassHealth and Medicare services must be provided according to the rules set by Medicare and MassHealth." See Exh. 7, p. 53.

Under its PCA program, MassHealth sets forth the following eligibility criteria for members to qualify for PCA services:⁵ First, the services must be "prescribed by a physician or nurse practitioner who is responsible for the member's... care." 130 CMR 422.403(C)(1). Additionally, the "member's disability [must be] permanent or chronic in nature and impair the member's functional ability to perform [at least two] ADLs ... without physical assistance." See 130 CMR 422.403(C)(2)-(3). Finally, MassHealth must determine that the requested services are medically necessary. See 130 CMR 422.403(4). A service is "medically necessary" if:

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

⁴ The full list of criteria to be enrolled in an ICO is specified in the definition of "Duals Demonstration Dual Eligible Individual" at 130 CMR 610.004 and includes the requirement that the individual be between 21 and 64 years of age.

⁵ PCA services are defined as "physical assistance with ADLs and IADLs provided to a member by a PCA in accordance with the member's authorized evaluation or reevaluation, service agreement, and 130 CMR 422.410." See 130 CMR 422.002.

See 130 CMR 450.204(A).

Here, there is no dispute that Appellant meets all prerequisites to qualify for PCA services. The issue on appeal is whether CCA correctly affirmed its decision to modify Appellant's request 35.75 hours of PCA services per week by partially approving only 18 hours per week. The requested time was comprised of 21 daytime hours and 14 nighttime hours per week. In the context of the PCA program "night hours" are defined as the hours between 12:00 a.m. and 6:00 a.m. See 130 CMR 422.402.

Once all threshold criteria have been met, eligible members may receive medically necessary PCA assistance to perform the following ADL categories:

- (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.

See 130 CMR 422.410.

In addition, MassHealth will pay for the PCA to assist the member in completing instrumental activities of daily living (IADLs). IADLs include activities that are "instrumental to the care of the member's health and are performed by a PCA, such as **meal preparation and clean-up, housekeeping**, laundry, shopping, maintenance of medical equipment, transportation to medical providers, and completion of paperwork required for the member to receive PCA services." 130 CMR §§ 422.402 and 422.410(B) (emphasis added).

MassHealth will reimburse for the "activity time performed by a PCA in providing assistance with the ADL." 130 CMR 422.411. MassHealth does not, however, pay for "assistance provided in the form of cueing, prompting, supervision, guiding, or coaching." 130 CMR 422.412(C).

The specific ADL and IADL categories that were modified by CCA included PROM exercises, grooming/nailcare, nighttime toileting assistance, housekeeping, and meal preparation/snacks. At

the hearing, CCA overturned the modifications made to the two IADL categories. Specifically, CCA agreed to approve the time requested for meal preparation/snack assistance to 35 minutes per week, bringing the total weekly time for meal preparation assistance to 455 minutes. Additionally, CCA agreed to approve 45 minutes per week for housekeeping as requested by Appellant. As all issues related to the modifications of meal preparation and housekeeping have been resolved in Appellant's favor, this appeal is DISMISSED in part pursuant to 130 CMR §§ 610.051(B), 610.035.

The appeal is DENIED in part with respect to the ADLs of grooming/nailcare and PROM. According to the PA request, Appellant sought 35 minutes of nailcare assistance per week, broken down as 5 minutes daily. CCA appropriately reduced the time to 10 minutes per week in accordance with the MassHealth time for task tool. Despite a thorough review of Appellant's testimony, medical record, and the PCA's written affidavit, there was insufficient evidence to demonstrate why Appellant required more time than would be ordinarily needed for someone requiring moderate assistance with nailcare. Likewise, CCA appropriately denied Appellant's request for 140 minutes per week for PROM exercise assistance. While Appellant may have muscle spasms, pain, and weakness in his legs, there is no evidence that he is incapable of moving any joint independently – a requisite component for an exercise to be classified as "passive range of motion." It is also noted that while Appellant contested these modifications throughout the hearing, he later appeared to retract such claims in his post-hearing memorandum, through which counsel acknowledged the appropriateness of CCA's decision with respect to grooming and PROM exercises

With respect to the final modification, Appellant successfully demonstrated that his request for 2 minutes per night for toileting assistance was appropriate and within the scope of covered PCA services. CCA approved Appellant's request for daytime toileting assistance but denied time for nighttime assistance on the basis that Appellant can reduce his fall risk at night by using a bedside commode. According to medical documentation, Appellant is incontinent of both bowel and bladder and experiences multiple episodes of incontinence each night. At hearing, Appellant clarified that, contrary to the PCM agency's notes, he uses a commode during the day to avoid the stairs to the second-floor bathroom; and, at night, he can only use the bathroom because his second-floor bedroom is too small to accommodate a commode or walker. Appellant explained that in either scenario he still requires assistance transferring to/from the toilet/commode. The PCM agency also documented (and Appellant confirmed) that the request for toileting assistance included, not just time for transfers, but also time for the PCA to assist with hygiene and clothing management tasks – which are needed both during the day and at night. See Exh. 6, p. 92. Such claims are also corroborated by the medical records submitted into evidence, which have documented Appellant's complaints of falling at night when trying to use the bathroom. Based on the foregoing, the appeal is APPROVED in part with respect to nighttime toileting assistance at 2 minutes per night.

Order for ICO

For the current PCA prior authorization period, approve 2 minutes per night for toileting assistance

as requested by Appellant.⁶ In addition, ensure that agreed-upon increases to housekeeping (45 minutes per week) and snack assistance (35 minutes per week) have been implemented. All increases are to be made retroactive to beginning of prior authorization period. The modifications made to PROM exercises and grooming/nailcare may remain in effect.

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.

Casey Groff
Hearing Officer
Board of Hearings

cc:

[REDACTED]

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

⁶ CCA testified that if any nighttime assistance is deemed medically necessary, CCA will automatically authorize 2 hours of PCA assistance per night, even if this exceeds the amount requested by the member. It is noted that this decision is limited to the issue of whether Appellant's request for two *minutes* per night was appropriate for toileting assistance. Because the appeal is approved in part with respect to this issue, CCA may approve more, but not less than, 2 minutes of PCA assistance per night.