

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2414970
<b>Decision Date:</b>	11/12/2024	<b>Hearing Date:</b>	10/29/2024
<b>Hearing Officer:</b>	Thomas J. Goode		

**Appearance for Appellant:**  
Pro se

**Appearances for Commonwealth Care Alliance:**  
Cassandra Horne, Appeals & Grievances Manager  
Jeremiah Mancuso, RN, Clinical Appeals Reviewer  
Amy Stebbins, RN, Utilization Management



*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>	Denied	<b>Issue:</b>	Prior Authorization: PCA Services
<b>Decision Date:</b>	11/12/2024	<b>Hearing Date:</b>	10/29/2024
<b>CCA's Reps.:</b>	Cassandra Horne, et al.	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Remote	<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 July 5, 2024, and following a first-level standard internal appeal, One Care, a Commonwealth Care Alliance (CCA) Integrated Care Organization (ICO), notified Appellant that it had upheld modifications to Appellant's request for PCA (personal care attendant) services (130 CMR 508.007, 422.000 *et seq.* and Exhibit 1). Appellant filed this appeal in a timely manner on September 30, 2024 (130 CMR 508.007, 610.018 and Exhibit 2). Appellant requested a virtual hearing which was scheduled for October 29, 2024. Appellant did not appear virtually and elected to participate by telephone. Modification of a prior authorization request for PCA services is valid grounds for appeal (130 CMR 508.007, 610.018).

### Action Taken by MassHealth

One Care, a Commonwealth Care Alliance (CCA) Integrated Care Organization (ICO), notified Appellant that following a first-level standard internal appeal, it had upheld modifications to Appellant's request for PCA (personal care attendant) services.

## Issue

The appeal issue is whether, following a first-level standard internal appeal, One Care, a Commonwealth Care Alliance (CCA) Integrated Care Organization (ICO), correctly upheld modifications to Appellant's request for PCA (personal care attendant) services.

## Summary of Evidence

The Commonwealth Care Alliance (CCA) representatives testified that Appellant is a MassHealth member enrolled in One Care, an Integrated Care Organization responsible for administering Appellant's MassHealth benefits. CCA explained that Appellant was previously receiving 72.75 PCA hours based on an evaluation dated January 20, 2023. [REDACTED] completed a re-evaluation on December 27, 2023, and requested 71 PCA hours on Appellant's behalf.<sup>1</sup> The request for 71 PCA hours was modified by CCA to 64 PCA hours per week. Appellant appealed the modification which was upheld by CCA following a Level 1 standard internal appeal conducted by CCA (Exhibit 1).

Appellant is paraplegic and wheelchair dependent. Comorbidities include Diabetes Mellitus, obesity, incontinence, neurogenic bladder and bowel, and spasticity. Appellant is [REDACTED] years old, and lives alone in the community. Appellant is independent in the use of his wheelchair, which Appellant stated is a power wheelchair, not a manual wheelchair. CCA argued that the PCM agency inaccurately characterized Appellant as dependent in all activities of daily living (ADLs) and requested PCA time for assistance with upper body tasks despite Appellant having full function of his upper body. CCA testimony and narrative asserts that based on a CCA rehabilitation note dated 11/8/2023 and other clinical data, Appellant is independent with the use of his wheelchair, and is also independent with bathing, dressing, and toileting, and needs only occasional assistance with dressing. Appellant is also noted to be independent with lateral transfers using a Beasy Board, and weight shifting for repositioning. (Exhibit 5 pp. 1, 102)

Modifications to PCA time requested were made as follows:

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

For the previous prior authorization period, Appellant requested passive range of motion 15 minutes, 3 times per day, 7 days per week for lower extremities (Exhibit 5, p. 92). CCA could not confirm whether the time had been approved as requested. In the current evaluation dated December 27, 2023, Appellant requested PROM, 15 minutes for each leg, 2 times per day, 7 days per week for 420 minutes per week. CCA modified the request to 10 minutes for each leg, 2 times

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<sup>1</sup> According to CCA narrative, Appellant's last full PCA authorization was set to expire on 2/29/2024. The annual PCA evaluation was conducted on December 27, 2023. CCM received a 1-page request for an extension from the PCM agency on 1/31/2024 for dates 3/1/2024-4/30/2024. CCA outreached to the PCM agency on 5/7/2024 to obtain the authorization request resulting in a May 2024 notice modifying services (Exhibit 5, p. 2).

per day, 7 days per week for 280 minutes per week. The prior authorization request states that the PCA does passive range of motion to both legs 2 times a day to increase circulation, ease pain and spasms, and to prevent contractures (Exhibit 5a, p. 4). CCA testified that passive range of motion exercises involve physically assisting the member to perform PROM exercises involving movement applied to a joint or extremity by another person solely for the purpose of maintaining or improving the distance and direction through which a joint can move, or to alleviate pain or reduce severe spasms and cramping. Average time-for-task estimates for PROM of the lower extremities are 10-30 minutes per day (Exhibit 5, p. 67). CCA testified that the time requested for PROM was reduced because 10 minutes per leg twice daily is adequate for passive range of motion exercises in the absence of medical documentation supporting increased frequency.

Appellant testified that the PCA does PROM exercises 6 to 8 times per day for more than 20 minutes depending on bladder spasticity and pain. Appellant testified that he requires more PROM time, and that PROM exercises help with pain and contractures, and help reduce incontinence and leg spasms.

**Grooming:**

CCA testified that Appellant requested 15 minutes, once per day, 7 days per week for shaving and application of lotion and deodorant. CCA modified the request to 10 minutes once per day. CCA testified that because Appellant has the use of his upper extremities and hands, he should be able to complete grooming tasks with 10 minutes of PCA time allowed for gathering necessary supplies.

Appellant testified that he has balance issues, and that the PCA shaves his face because he frequently cuts himself shaving. He added that the PCA also shaves his pubic area every two weeks. He stated that he applies deodorant and lotion himself.

**Bladder Care**

Bladder care was requested 5 minutes, 8 times per day, 7 days per week, and was modified to 5 minutes, 6 times per day, 7 days per week. Bladder care involves the PCA gathering straight catheter supplies and assisting with catheterization. Appellant agreed that the modification provided sufficient PCA time for bladder care.

**Special Needs**

CCA testified that under the category Special Needs, an evening wash was requested, 15 minutes, once per day, 7 days per week. CCA testified that the requested time was not allowed because adequate time for showering was approved as requested twice per day, 25 minutes, 7 days per week, in addition to 20 minutes for daily bowel care and 30 minutes daily for bladder care which includes time for hygiene and washing. CCA argued that the PCM agency inaccurately characterized Appellant as dependent in all activities of daily living (ADLs) and requested PCA time for assistance with upper body tasks despite Appellant having full function of his upper body. CCA testified that a rehabilitation note dated 11/8/2023 and other clinical data

demonstrate that Appellant is independent with the use of his manual wheelchair, and is also independent with bathing, dressing, and toileting, and needs only occasional assistance with dressing. Appellant is also noted to be independent with lateral transfers using a Beasy Board and can independently weight shift for repositioning (Exhibit 5 pp. 1, 102).

Appellant testified that he showers 5 to 6 times per day due to incontinence and to prevent urinary tract infections. He testified that showering takes 45 minutes because the PCA must assist him while transferring to and from the shower chair and assist with washing and drying, which must be done carefully to prevent infection. Appellant added that he is obese, which also makes it difficult to transfer into and out of the tub and makes it more difficult to stay clean. Appellant added that he uses suppositories and stool softeners which increase bowel incontinence and cause frequent soiling.

## Findings of Fact

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

1. Appellant is a MassHealth member enrolled in One Care, which is a CCA Integrated Care Organization responsible for administering Appellant's MassHealth benefits.
2. Appellant was previously receiving 72.75 PCA hours per week based on an evaluation dated January 20, 2023.
3. [REDACTED] completed a re-evaluation on December 27, 2023, and requested 71 PCA hours per week on Appellant's behalf.
4. The request for 71 PCA hours was modified by CCA to 64 PCA hours per week.
5. Appellant appealed the modifications which were upheld by CCA following a Level 1 standard internal appeal.
6. Appellant is paraplegic and wheelchair dependent. Comorbidities include Diabetes Mellitus, obesity, incontinence, neurogenic bladder and bowel, and spasticity.
7. Appellant is [REDACTED] years old, and lives alone in the community.
8. Appellant uses a manual wheelchair augmented with a Smart Drive propulsion assist device that allows him to be more independent with a manual wheelchair.
9. Appellant is independent in transfers using a Beasy Board, is able to weight shift independently, and is independent with bathing, and toileting, and needs occasional

assistance with dressing.

10. For the previous prior authorization period, Appellant requested passive range of motion 15 minutes, 3 times per day, 7 days per week for lower extremities. In the current evaluation dated December 27, 2023, Appellant requested PROM, 15 minutes for each leg, 2 times per day, 7 days per week for 420 minutes per week. CCA modified the request to 10 minutes for each leg, 2 times per day, 7 days per week for 280 minutes per week. Medical documentation was not submitted to support the request for increased PROM.
11. Passive range of motion exercises involve physically assisting the member with exercises involving movement applied to a joint or extremity by another person solely for the purpose of maintaining or improving the distance and direction through which a joint can move; or to alleviate pain or reduce severe spasms and cramping.
12. The PCA completes PROM exercises to both legs to increase circulation, ease pain, spasms, and to prevent contractures.
13. Average time-for-task estimates for PROM are 10-30 minutes per day for lower extremities.
14. Appellant requested 15 minutes, once per day, 7 days per week for shaving, and application of lotion and deodorant.
15. Appellant has the use of his upper extremities and hands.
16. Bladder care was requested 5 minutes, 8 times per day, 7 days per week, and was modified to 5 minutes, 6 times per day, 7 days per week. Appellant agreed that the modification provides sufficient PCA time for bladder care.
17. An evening wash was requested, 15 minutes, once per day, 7 days per week.
18. Showering/bathing was approved as requested twice per day, 25 minutes each, 7 days per week, in addition to 20 minutes for daily bowel care and 30 minutes daily for bladder care which includes time for hygiene and washing.
19. Appellant uses suppositories and stool softeners.

## Analysis and Conclusions of Law

Appellant is a MassHealth member enrolled in One Care, which is a health plan that contracts with both Medicare and the Commonwealth of Massachusetts MassHealth (Medicaid) program to provide benefits of both programs to enrollees. Pursuant to 130 CMR 508.007(C), 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. As such, CCA One Care is responsible for authorizing all covered services for Appellant, including PCA services in accordance with its medical necessity guidelines for PCA services which mirror MassHealth regulations. Appellant has the burden of proving by a preponderance of the evidence the invalidity of the determination by the MassHealth agency or the ICO contracting with MassHealth.<sup>2</sup>

Pursuant to 130 CMR 422.403(C), MassHealth covers PCA services provided to eligible MassHealth members who can be appropriately cared for in the home when all 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.

### 130 CMR 450.204: Medical Necessity

The MassHealth agency does not pay a provider for services that are not medically necessary.

(A) 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: *Potential Sources of Health Care*, or

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<sup>2</sup> See Fisch v. Board of Registration in Med., 437 Mass. 128, 131 (2002) (burden is on appellant to demonstrate the invalidity of an administrative determination).

## 517.007: Utilization of Potential Benefits.

The CCA One Care Medical Necessity Guidelines and MassHealth regulations establish that PCA services require prior authorization. All authorizations submitted to CCA for determination are reviewed against 130 CMR 422.000 *et seq.* and the Decision Support Tool. Authorization requests must contain the following documents for proper medical necessity review:

1. MassHealth PCA Evaluation Time for Task Tool (ICO)
2. Surrogacy Assessment
3. Completed Skills training
4. Additional narrative needed to support medical necessity.

The CCA Care Partner and interdisciplinary team can identify a need for PCA services. An authorization is provided to the PCM Agency for an in-home assessment to determine eligibility for the program, need for surrogate and hours of need. Upon determination, if the member meets eligibility criteria, the PCM will submit the PCA Assessment tool along with a Prior Authorization Request. If the member is found to be ineligible, the PCM will submit a request to CCA for denial. When the member experiences a permanent change in status, he or she must be re-evaluated by the PCM. Authorizations must not exceed the standards of the MassHealth Time-for-Task Standards (ICO).<sup>3</sup>

The prior authorization request dated December 27, 2023, was modified in the following areas: Passive Range of Motion, Grooming, Bladder Care, and Special Needs (evening wash). Under every category of assistance requested for ADLs, the PCM agency states that Appellant is dependent in all ADLs (Exhibit 5a). In contrast, CCM portrays Appellant as more independent with certain ADLs and emphasizes that Appellant is independent with use of a manual wheelchair. The objective clinical evidence in the hearing record shows that while Appellant does use a manual wheelchair, it is augmented with a Smart Drive propulsion assist device that allows him to be more independent with a manual wheelchair.<sup>4</sup> Clinical records also show that Appellant is independent in transfers using a Beasy Board, is able to weight shift independently, and is independent with bathing, and toileting, and needs occasional assistance with dressing.<sup>5</sup>

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

Appellant previously requested PROM 15 minutes, 3 times per day, 7 days per week for lower

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<sup>3</sup> See Exhibit 5, pp. 74-79.

<sup>4</sup> See Exhibit 5, p. 157 DOS 7/24/2023: "Smart Drive Mx2 System: to aid in propulsion. He has been using Smart Drive for years. Now uses it full time. It will allow him to maintain shoulder integrity and ability to continue to self-propel MWC;" p. 139 DOS 11/8/2023: "Fatigues with long distance MWC propulsion. Uses Smart Drive at all times when outdoors." See also pp. 102, 159, 162.

<sup>5</sup> See Exhibit 5, p.102, DOS 11/8/2023; p.142, DOS 10/30/2023; p.155, DOS 7/24/2023; p.158, DOS 5/11/2023; p.161, DOS 5/24/2023).



extremities for a total of 315 minutes per week or 5.25 hours weekly (Exhibit 5, p. 92). It is unclear in CCA testimony whether the time was approved as requested or modified. In the current evaluation dated December 27, 2023, Appellant requested increased PROM 15 minutes for each leg, 2 times per day, 7 days per week for 420 minutes per week or 7 hours weekly (Exhibit 5a, p. 4). CCA modified the request to 10 minutes for each leg, 2 times per day, 7 days per week for 280 minutes, or 40 minutes per day, 4.66 hours per week because there is no medical documentation supporting the increased PROM time requested. CCA Medical Necessity Guidelines state that additional narrative is needed to support medical necessity for PCA time requested, which is absent from the medical record. Average time-for-task estimates for PROM of the lower extremities are 10-30 minutes per day (Exhibit 5, p. 67). Therefore, in the absence of medical documentation supporting the increase, 40 minutes PROM per day more closely aligns with time-for-task standards. Therefore, the modification is upheld.

#### **Grooming:**

CCA testified that Appellant requested 15 minutes, once per day, 7 days per week for shaving, and application of lotion and deodorant. The request was modified to 10 minutes one time per day, 7 days per week because Appellant has the use of his upper extremities and hands, and CCA maintains that he should be able to complete grooming tasks such as shaving, and application of deodorant and lotion with PCA time allowed for gathering necessary supplies. Appellant testified that he has balance issues, and that the PCA shaves his face because he often cuts himself shaving, and his pubic area is shaved every two weeks; however, because Appellant has use of his upper extremities and hands, he has not carried the burden of proof in showing that 10 minutes, once per day, 7 days per week is inadequate PCA time to complete specified grooming tasks. Therefore, the modification is upheld.

#### **Bladder Care**

Bladder care was requested 5 minutes, 8 times per day, 7 days per week, and was modified to 5 minutes, 6 times per day, 7 days per week. Appellant agreed that the modification provides sufficient PCA time for bladder care and is therefore upheld.

#### **Special Needs (evening wash)**

An evening wash 15 minutes, once per day, 7 days per week was not allowed because time for showering/bathing was approved as requested twice per day, 25 minutes each, 7 days per week, in addition to 20 minutes for daily bowel care and 30 minutes daily for bladder care which include time for hygiene and washing.<sup>6</sup> The previous prior authorization request submitted by the PCM agency included showering/bathing 3 times per day, 25 minutes per shower/bath, which was reduced by the PCM agency in the current prior authorization request to 25 minutes twice per day (See Exhibit 5, p.91 and Exhibit 5a, p. 3). Throughout the 12/27/2023 prior authorization request, Appellant's ADL status is characterized as dependent by the PCM agency; however, medical records consistently characterize Appellant as independent in most ADLs including bathing,

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<sup>6</sup> See Exhibit 5, p. 68: Toileting: includes hygiene.

transferring by Beasy Board, toileting, weight-shifting and needing only occasional assistance with dressing.<sup>7</sup> Pursuant to the time-for-task guidelines, PCA time for showering/bathing can range up to 60 minutes for an individual totally dependent in ADLs (See Exhibit 5, p. 65). Here, the prior authorization request for PCA time for showering/bathing falls between minimal assist-15 minutes, and moderate assist-30 minutes, which supports the CCA view that Appellant is not totally dependent for showering/bathing.<sup>8</sup> Further, the PCM agency requested less PCA time for showering than in the previous prior authorization request, also showing less need for assistance. With the combination of bowel care and bladder care which includes PCA time for hygiene, the objective evidence supports the CCA position that ample PCA time has been allowed for showering/bathing and hygiene. For these reasons, the CCA determination denying an additional evening wash is upheld.

For the foregoing reasons, the appeal is DENIED.

## **Order for Commonwealth Care Alliance**

None.

## **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.

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Thomas J. Goode  
Hearing Officer  
Board of Hearings

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

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<sup>7</sup> See fn. 5.

<sup>8</sup> See Exhibit 5, p. 72 Levels of Physical Assistance:

- 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.