

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	DENIED	<b>Appeal Number:</b>	2415482
<b>Decision Date:</b>	3/3/2025	<b>Hearing Date:</b>	12/13/2024
<b>Hearing Officer:</b>	Kenneth Brodzinski		

**Appearance for Appellant:**



**Appearance for MassHealth:**

Commonwealth Care Alliance: Cassandra  
Horne; Hannah Guskie, RN; Jeremiah  
Mancuso, RN

**Interpreter:**

Spanish



*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 SCO - PCA
<b>Decision Date:</b>	3/3/2025	<b>Hearing Date:</b>	12/13/2024
<b>MassHealth's Rep.:</b>	CCA - SCO	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Quincy	<b>Aid Pending:</b>	Yes

### Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapter 118E, Chapter 30A, and the rules and regulations promulgated there under.

### Jurisdiction

Through notice dated September 27, 2024, MassHealth's agent, Commonwealth Care Alliance (CCA) denied Appellant's first level appeal which sought to have Personal Care Attendant (PCA) services approved in the amount that had been approved in the previous year (Exhibit A). Appellant filed this appeal in a timely manner on October 7, 2024 (see 130 CMR 610.015(B) and Exhibit A). Appellant was granted Aid Pending status which maintained the level of PCA services she had been receiving until this decision is rendered. PCA determinations constitute valid grounds for appeal (see 130 CMR 610.032).

### Action Taken by MassHealth

MassHealth's agent, CCA, denied Appellant's first level appeal which sought to have Personal Care Attendant (PCA) services approved in the amount that had been approved in the previous year.

## Issue

The appeal issue is whether MassHealth's agent, CCA properly applied the controlling regulation(s) to accurate facts when it denied Appellant's first level appeal which sought to have Personal Care Attendant (PCA) services approved in the amount that had been approved in the previous year.

## Summary of Evidence

MassHealth was represented by three representatives of its agent, CCA, who appeared by telephone and testified that Appellant was recently re-evaluated for continued PCA services. The CCA representatives testified Appellant has been a member of its SCO plan since June 1, 2024 and came to CCA with previous PCA hours approved at 20 day/evening hours per week. Appellant filed a prior authorization (PA) request this year seeking the same amount of time. CCA's SCO team visited Appellant in his home and performed an on-site PCA assessment. Based on that assessment, CCA approved Appellant for 16.5 day/evening hours per week. Appellant filed a level-I internal appeal with CCA which was denied on September 26, 2024 (Exhibit A).

After the parties exchanged testimony, Appellant stated that he did not dispute the modifications made to time requested for assistance with grooming, toileting and medications. By the end of the hearing, the following modifications remained in dispute:

### Mobility/Transfers

According to the CCA representatives, during the in-home assessment, Appellant was observed ambulating without an assistive device and transferring independently. For this reason, time for assistance with mobility and transfers was denied.

Appellant testified that he can walk, but must do so very slowly and carefully. He stated that he needs help to transfer out of bed and that the PCA (his daughter) has to lift him or push him with her hands. Appellant also testified that sometimes when his legs are swollen, he has to use a cane. In response to questioning by the hearing officer, Appellant testified that a cane is the only assistive device he uses for ambulation.

### Bathing & Shampooing

According to the CCA representatives, the in-home assessment revealed that Appellant requires assistance with washing his hair because of difficulty lifting his arms to his head, but he was independent with being able to wash his entire body. For this reason, no time was given for bathing, but time was given to assist with hair washing at 12 minutes two times per week. The CCA representatives testified that this amount is based on the MassHealth PCA Guidelines,

Time for Task Tool, based on a determined need of maximum assistance with hair washing.

Appellant testified that he can get in and out of the tub, but has to do so very slowly. He acknowledged that his daughter/PCA helps him with hair washing, but he also testified that sometimes he can't bend forward and his daughter has to help him wash his body.

#### Dressing & Undressing

According to the CCA representatives, the in-home assessment revealed that Appellant requires assistance with getting his shirt over his head and taking on and taking off his shoes. Otherwise, he was seen to be independent with being able to put his hands through his shirt sleeves and with being able to dress his lower body other than his shoes. Accordingly, Appellant was approved for eight minutes per day 7 days per week to assist with dressing and 6 minutes 7 days per week to assist with undressing. The CCA representatives testified that this is slightly more time than what is indicated by the Time for Task Tool for a determined level of minimum assistance with dressing and undressing.

Appellant testified that the time needed to assist with dressing and undressing varies day to day. Appellant testified that he has epilepsy and after a seizure he often can barely move for a couple of days.

In response, the CCA representatives questioned Appellant about how often he experiences seizures. Appellant replied that he has one or two seizures per week and that their effects last several days. Upon questioning by the hearing officer, Appellant testified that he takes Dilantin 100 milligrams and has been taking it his whole life.

In response, the CCA representatives stated that assistance with possible and preventable needs are excluded from the PCA program; therefore, if Appellant's seizures are regularly controlled with medication and only experienced from time-to-time, assistance arising from sporadic such conditions is not covered under the PCA program. Additionally, the CCA representatives stated that CCA pays for all of Appellant's medications and they could see no indication in its records that Appellant was being prescribed Dilantin or that CCA was paying for Dilantin. In response, Appellant stated that the reviewing nurse who came to his house took pictures of all his medication bottles and it should reveal his Dilantin.

#### Eating

The CCA representatives testified that according to the in-home assessment, Appellant was observed to be independent with eating; therefore, no time was approved to assist with eating.

Appellant testified that he does not require assistance with eating when he is feeling well, but after a seizure his daughter has to help him to eat.

### Meal Preparation

The CCA representatives testified that during the in-home assessment, the assessing nurse determined that Appellant requires assistance with meal preparation. The nurse noted that Appellant cannot use a stove or chop his own food. The nurse reported that Appellant can make his own coffee and can retrieve drinks and use the microwave, but he needs assistance with the preparation of full meals for breakfast lunch and dinner. Accordingly, time was approved for assistance with meal preparation, seven days a week as follows: breakfast 10 minutes (min assist); lunch 30 minutes (max assist); dinner 45 minutes (max assist) and no time for snacks.

Appellant testified that his need for assistance with meal preparation all depends on his epilepsy. He testified that he recently burned himself getting coffee because he felt dizzy but acknowledged that most days he can do that himself.

### Laundry

The CCA representatives testified that Appellant has a washer and a dryer in the apartment building where he resides and Appellant acknowledged being able to fold and put away clothes, but he requires assistance to load and unload the washer and dryer. Accordingly, 60 minutes per week was approved to assist with laundry in accordance with the Time for Task Tool for someone requiring maximum assistance with laundry.

Appellant testified that he didn't know exactly how much time it takes to do his laundry because his daughter always does it. He also noted that he has a washer and dryer in his apartment unit. Appellant also testified that his daughter folds the clothes, but Appellant puts them away.

### Housekeeping

The CCA representatives testified that according to the in-home assessment, Appellant reported that he is able to do some light housekeeping but requires assistance with moderate to heavy cleaning. Appellant was assessed to need maximum assistance with housekeeping and approved for 60 minutes per week in accordance with the Time for Task Tool.

Appellant testified that he might be able to dust from time to time and put some things away, otherwise his daughter does all the cleaning and Appellant does not believe 60 minutes per week is sufficient.

### Shopping

According to the in-home assessment, Appellant reported that he needs to be driven to and

from the grocery store. He acknowledged being able to carry light items and put them away, but he requires assistance to carry bags and larger items and to put those away. Appellant was assessed to require maximum assistance with shopping and approved for 60 minutes per week in accordance with the Time for Task Tool.

Appellant testified that it takes more than 60 minutes to shop. Upon questioning by the hearing officer, Appellant testified that his daughter only shops for him and does so once or twice per week.

#### Medical Transportation

The CCA representatives testified that according to the assessment, Appellant does not drive and the PCA drives him to medical appointments and accompanies him to and from the office. According to the assessment, Appellant has four medical appointments per year with a drive time of 30 minutes each way for each appointment. The total time to assist with transportation for the year was divided by 52 weeks to reach a weekly total of five minutes per week.

Appellant testified that he has more than 4 appointments per year. Appellant testified that last month he went to the doctor three times. He also testified that he did not discuss this matter with the assessing nurse and does not know where she got this information from.

In response, The CCA representatives testified that according to their documentation, since June 2024 Appellant had one visit with his primary care physician in [REDACTED]. He had one visit to attend an MRI in [REDACTED] and one visit to the emergency room in [REDACTED]. According to the CCA representatives, these were the only medical appointments Appellant had between June and the date of hearing in mid-December 2024.

At the end of the hearing, the record was left open until January 2<sup>nd</sup> 2025 in order for Appellant to obtain a letter from his treating physician about the status and treatment of his epilepsy and how often he has seen Appellant in his office since June 1, 2024. By the record closed date and the date of this decision, Appellant did not file any additional information with the Board of Hearings and did not request any additional time to do so.

## Findings of Fact

By a preponderance of the evidence, this record supports the following findings:

1. Appellant has been a member of the CCA SCO plan since June 1, 2024 and came to CCA with previous PCA hours approved at 20 day/evening hours per week.
2. Appellant filed a prior authorization (PA) request this year seeking the same amount of time.
3. CCA's SCO team visited Appellant in his home and performed an on-site PCA assessment.
4. Based on the in-home assessment, CCA approved Appellant for 16.5 day/evening PCA hours per week.
5. Appellant filed a level-I internal appeal with CCA which was denied on September 26, 2024 (Exhibit A).
6. Appellant did not dispute the modifications made to time requested for assistance with grooming, toileting and medications.
7. During the in-home assessment, Appellant was observed ambulating without an assistive device and transferring independently.
8. CCA approved no time for assistance with mobility and transfer.
9. Appellant can ambulate independently but does use a cane from time-to-time when his legs are swollen.
10. Appellant requires assistance with washing his hair because of difficulty lifting his arms to his head.
11. Appellant is independent with being able to wash his entire body, but requires maximum assistance to wash his hair.
12. No time was given for bathing, but time was given to assist with hair washing at 12 minutes two times per week.
13. Sometimes, Appellant requires assistance with washing his body.

14. Appellant requires assistance with getting his shirt over his head and taking on and taking off his shoes.
15. Appellant is independent with being able to put his hands through his shirt sleeves and with being able to dress his lower body other than his shoes.
16. Appellant requires minimum assistance with dressing and undressing.
17. Appellant was approved for eight minutes per day 7 days per week to assist with dressing and 6 minutes 7 days per week to assist with undressing.
18. According to CCA's records, there is no indication that Appellant is being prescribed Dilantin or that CCA has been paying for Dilantin.
19. Appellant is independent with eating; therefore, no time was approved to assist with eating.
20. Appellant cannot use a stove or chop his own food.
21. Appellant can make his own coffee and can retrieve drinks and use the microwave, but he needs assistance with the preparation of full meals for breakfast lunch and dinner.
22. Time was approved for assistance with meal preparation, seven days a week as follows: breakfast 10 minutes (min assist); lunch 30 minutes (max assist); dinner 45 minutes (max assist) and no time for snacks.
23. Appellant is able to fold and put away clothes.
24. Appellant requires assistance to load and unload the washer and dryer.
25. Appellant requires maximum assistance with laundry.
26. Appellant has a washer and dryer in his apartment unit.
27. 60 minutes per week was approved to assist with laundry.
28. Appellant is able to do some light housekeeping such as dusting but requires assistance with moderate to heavy cleaning.
29. Appellant requires maximum assistance with housekeeping.
30. Appellant was approved for 60 minutes per week to assist with housekeeping.



31. Appellant needs to be driven to and from the grocery store.
32. Appellant is able to carry light items and put them away, but he requires assistance to carry bags and larger items and to put those away.
33. Appellant requires maximum assistance with shopping.
34. Appellant was approved for 60 minutes per week to assist with shopping.
35. Appellant does not drive and the PCA drives him to medical appointments and accompanies him to and from the office.
36. Appellant has four medical appointments per year with a drive time of 30 minutes each way for each appointment.
37. The total time to assist with transportation for the year was divided by 52 weeks to reach a weekly total of five minutes per week.
38. According to CCA records, since June 2024 Appellant had one visit with his primary care physician in [REDACTED] one visit to attend an MRI in [REDACTED] and one visit to the emergency room in [REDACTED] - these were the only medical appointments Appellant had between June and the date of hearing in mid-December 2024.
39. The record was left open until January 2<sup>nd</sup> 2025 in order for Appellant to obtain a letter from his treating physician about the status and treatment of his epilepsy and how often he has seen Appellant in his office since June 1, 2024.
40. By the record closed date and the date of this decision, Appellant did not file any additional information with the Board of Hearings and did not request any additional time to do so.

## Analysis and Conclusions of Law

The party appealing an administrative decision bears the burden of demonstrating the decision's invalidity [REDACTED]

[REDACTED] On this record, Appellant has not met his burden.

### Mobility/Transfers – modification upheld:

Appellant was observed being independent with transfers and ambulation during the in-home assessment. He uses no assistive devices except for a cane “sometimes”. Appellant also acknowledged being independent with transferring in and out of a tub. Appellant claimed he needs assistance with transfers out of bed, but this is incongruous with being able to transfer independently in and out of a tub and Appellant has provided no evidence to corroborate his assertion.

### Bathing & Shampooing – modification upheld:

Appellant did not dispute the time granted for assisting with washing his hair, but did dispute to being able to wash his body. However, Appellant did not assert that he requires daily or regular assistance with this activity – only that he “sometimes” needs assistance with washing his lower body when he finds that he can’t bend over. As this frequency cannot be ascertained with any regularity, its medical necessity cannot be established for the purposes of the PCA program (130 CMR 450(A)).

### Dressing & Undressing – modification upheld:

Appellant asserted that his need for assistance with dressing and undressing fluctuated based on his epilepsy. At hearing, CCA demonstrated through a review of its pharmacy records and claims, that there was no indication that Appellant was taking medication for epilepsy or that he was otherwise being treated for this condition. Appellant was given time after the hearing to verify that epilepsy was a current diagnosis, and he was being treated for it, but Appellant failed to file the requested physician’s letter or any other form of corroboration by the time this decision issued. Accordingly, Appellant has not demonstrated the medical necessity for a change in the amount of time approved for dressing & undressing.

### Eating - modification upheld:

Appellant asserted that his need for assistance with eating depends on his epilepsy. At hearing, CCA demonstrated through a review of its pharmacy records and claims, that there was no indication that Appellant was taking medication for epilepsy or that he was otherwise being treated for this condition. Appellant was given time after the hearing to verify that epilepsy

was a current diagnosis, and he was being treated for it, but Appellant failed to file the requested physician's letter or any other form of corroboration by the time this decision issued. Accordingly, Appellant has not demonstrated the medical necessity for time to assist with eating.

Meal Preparation – modification upheld:

Appellant asserted that his need for assistance with meal preparation fluctuated based on his epilepsy. At hearing, CCA demonstrated through a review of its pharmacy records and claims, that there was no indication that Appellant was taking medication for epilepsy or that he was otherwise being treated for this condition. Appellant was given time after the hearing to verify that epilepsy was a current diagnosis, and he was being treated for it, but Appellant failed to file the requested physician's letter or any other form of corroboration by the time this decision issued. Accordingly, Appellant has not demonstrated the medical necessity for a change in the amount of time approved for meal preparation.

Laundry – modification upheld:

At hearing, Appellant acknowledged that he didn't know how much time it takes to do the laundry because his daughter/PCA does it. Accordingly, there is no factual basis to reasonably conclude that Appellant has evidenced that he requires more than the 60 minutes per week that was approved to assist with laundry. Additionally, the Time for Task Tool directs that 60 minutes are the upper limit for assistance with laundry when laundry is performed in (as opposed to outside) the home. At hearing, Appellant acknowledged that his washer and dryer are inside his apartment unit. On this record, there is no reasonable basis to conclude that the approved 60 minutes to assist with laundry is not sufficient.

Housekeeping – modification upheld:

Appellant asserted that the approved 60 minutes to assist with housekeeping was insufficient. Appellant failed to substantiate his assertion in any way. CCA based the 60 minutes on the Time for Task Tool given his assessed need of "maximum assistance". On this record, there is no reasonable basis to conclude that the approved 60 minutes to assist with housekeeping is not sufficient.

Shopping – modification upheld:

At hearing, Appellant again merely asserted that weekly shopping takes more than the approved 60 minutes. Appellant to provide any basis for this assertion, such as the driving distance to the grocery store, whether he needs to shop at more than one grocery store, whether he has a special diet requiring multiple trips or trips to stores further away than his

local grocery store. On this record, there is no reasonable basis to conclude that the approved 60 minutes to assist with weekly shopping is not sufficient.

Medical Transportation – modification upheld:

CCA calculated the number of medical appointments by reviewing its claims history. Appellant asserted that he has more appointments than CCA asserts. Appellant was given time after the hearing to verify the number of medical appointments he has, but he failed to file the requested physician's letter or any other form of corroboration by the time this decision issued. Accordingly, Appellant has not demonstrated the medical necessity for a change in the amount of time approved for medical transportation.

For the foregoing reasons, the appeal is DENIED.

## **Order for MassHealth's Agent**

Remove Aid Pending and adjust PCA hours in accordance with subject notice.

## 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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Kenneth Brodzinski  
Hearing Officer  
Board of Hearings

cc:

[REDACTED]

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