

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved-in-part; Dismissed-in-part	Appeal Number:	2417033
Decision Date:	03/25/2025	Hearing Date:	01/06/2025
Hearing Officer:	Casey Groff	Record Closed:	1/30/2025

Appearance for Appellant:



Appearance 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	Issue:	Managed Care; ICO; Denial of Level 1 Appeal; PCA services
Decision Date:	03/25/2025	Hearing Date:	01/06/2025
ICO Reps.:	Cassandra Horne; Jeremiah Mancuso, RN	Appellant's Rep.:	■
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 10/11/24, the Commonwealth Care Alliance (CCA), an Integrated Care Organization (ICO) and managed care contractor for MassHealth, notified Appellant that it denied her level 1 appeal regarding its decision to modify her request for personal care attendant (PCA) services. *See* Exhibit 1. Appellant filed a timely appeal with the Board of Hearings (BOH) on 11/6/24. *See* Exhibit 4. A final coverage determination rendered by a managed care contractor, such as an ICO, is valid grounds for appeal.¹ *See* Exhibit 4; 130 CMR 610.032. BOH initially scheduled the hearing for 12/13/24. *See* Exh. 5. On 12/3/24, Appellant requested that the hearing be rescheduled and provided supporting documentation of good cause for the request. *See* Exh. 7. BOH granted the request and rescheduled the hearing to take place on 1/6/25. *See* Exh. 8. At the conclusion of the hearing, the record was left open through 1/30/25 to allow the parties to submit additional evidence. *See* Exhibits 10-15.

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 10/11/24, 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 evidence through testimony and documentary submissions: 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, including personal care attendant (PCA) services. See Exh. 9(a). at 78. Independence Associates, Inc. (IA) is the personal care management (PCM) agency that assists Appellant in managing the PCA program and performs assessments to evaluate her level of need for assistance with activities of daily living (ADLs) and instrumental activities of daily living (IADLs). Appellant was initially referred to Ind. Assoc. for PCA services on 3/7/22. *Id.* at 78.

On 6/11/24, a registered nurse from Ind. Assoc. conducted an in-home reevaluation of Appellant to determine her ongoing need for PCA services. *Id.* at 106. At the time of the reevaluation, Appellant was receiving 32.25 hours per week of PCA services (comprised of 18.25 daytime hours and 14 nighttime hours per week) as a result of a PA request period that started on 5/1/23 and which was set to expire on 6/30/24.² *Id.* at 36; 112.

As a result of its reevaluation, IA sent CCA a prior authorization (PA) request on behalf of Appellant on 6/13/24, seeking 33.5 hours of PCA services per week (comprised of 19.5 daytime and 14 nighttime hours) for dates of service 7/1/24 through 6/30/25. *Id.* at 76-107. According to the reevaluation, Appellant has diagnoses that include chronic nerve pain, chronic asthma, hypertension (HTN), as well as a history of a right-hand fracture; 3 fractured spinal discs, multiple falls; a spinal stimulator placed on [REDACTED]; increased fatigue since March 2023; weakness, cardiac restrictions, and dyspnea with minimal exertion. *Id.* at 83-84,120. Additional documentation

² Documentation indicates that this PA period was initially set to expire on 4/30/24 but that CCA extended it through 6/30/24. *Id.* at 112.

indicates that Appellant has additional diagnoses of coronary artery disease following a cardiac catheterization procedure on [REDACTED]. *Id.* at 36. The PCM agency noted that Appellant lived with her spouse and adult son, and that no other household members receive PCA services. *Id.* at 36 – 44.

On 6/27/24, CCA notified Appellant that it modified her PA request by partially approving 8.75 hours of PCA services per week. *See* Exh. 3 and Exh. 9(a) at 45. CCA subsequently discovered that, due to a calculation error, the correct authorization was actually 10.25 hours weekly. *See* Exh. 9(a) at 348. The notice informed Appellant that her existing PA for 32.25 hours per week would be extended through 7/13/24 with the new PA period taking effect 7/14/24 and ending 6/30/25. *Id.* at 36 – 44.

On 9/18/24, Appellant filed a request for an internal level 1 appeal of the coverage determination.³ On appeal, a CCA medical director - a licensed physician board certified in physical medicine and rehabilitation - reviewed all relevant documentation, including the 6/11/24 PCA reevaluation, an occupational therapy (OT) evaluation dated 2/28/24; a 11/20/23 physical therapy assessment, CCA's medical necessity guideline (MNG) #80, and MassHealth's Time For Task Standards.⁴

On 10/11/24, CCA notified Appellant that it partially approved her level 1 internal appeal by restoring the time requested for one of the IADLs (i.e., shopping at 60 minutes per week), resulting in her PCA hours increasing to 11.25 hours per week. However, the 10/11/24 notice informed Appellant that her appeal was denied as to Appellant's request for assistance with the ADLs of mobility/transfers, bathing, nighttime hour/toileting assistance, and the IADLs of meal preparation, laundry, and housekeeping *Id.* 36-38, 185.

Appellant's son appeared at the hearing and disputed CCA's decision to drastically reduce Appellant's PCA services from her last PA period. Appellant's representative noted that the listed diagnoses significantly did not mention Appellant's massive heart attack on 2/18/24. Since this event, Appellant has had significant worsening of her condition and decline in functional status.

³ According to documents provided by CCA, Appellant's request for a level 1 appeal came after the timeframe typically allowed to internally appeal coverage determinations; however, CCA approved the request upon a showing of good cause. The information shows that Appellant mistakenly skipped the level 1 appeal process and prematurely filed a level 2 appeal with the Board of Hearings (BOH). *Id.* at 140. Corresponding records from BOH show that Appellant did indeed submit a request for a fair hearing, resulting in Appeal No. 2411371. This appeal, however, was scheduled on an unrelated MassHealth eligibility matter. At the 8/23/24 hearing date, Appellant was informed that he could only appeal to BOH based on a final determination from CCA. *Id.* Appellant therefore withdrew Appeal No. 2411371 and proceeded by seeking a level 1 appeal through CCA, which, as discussed above, was received on 9/18/24. *Id.*; *see also* Exh. 4.

⁴ A copy of CCA's MNG #80 was submitted into evidence. This document states that "all authorizations submitted to CCA for determination of PCA for PCA services are reviewed against MassHealth regulation 130 CMR 422.000 and MassHealth's time for task tool." *Id.* at 68-74.

The representative pointed to several documents, which he submitted to CCA in advance of the level 1 appeal and which he believed supported her need for the full request for PCA services. Such documents included medical records documenting Appellant's myocardial infarction from February 2024, a plan to undergo an MRI for worsening spinal issue with L1-L2; senile cataracts and myopia of both eyes, anxiety disorder, lumbar radiculopathy, right hand weakness, chronic wrist pain, ulnar impaction syndrome also known as triangular fibrocartilage complex tear (TFCC), radial styloid tenosynovitis; tinnitus of right ear; chest pain, shortness of breath, bilateral leg edema, hypokalemia, left knee pain, and dizziness. *Id.* at 30-36; 130-147, 157. Appellant's representative pointed to a 7/24/24 nursing assessment which showed that Appellant had trouble using the stairs, decreased walking endurance (using a walker for ambulation), shortness of breath, difficulty with balance, headaches, weakness, right shoulder pain at 7/10, a reported fall 6 months prior, and unsteady gait. *Id.* at 157-158, 185. Appellant's representative explained that contrary to CCA's position, Appellant's spouse is unable to assist with care given his significant health issues, including colon cancer.

Appellant also submitted a letter dated 7/11/24 from Appellant's primary care provider, [REDACTED]. In the letter, [REDACTED] advocated for Appellant to receive increased PCA hours, stating the following:

[Appellant] suffers from a number of complex medical conditions including high blood pressure, CAD, lumbar pain s/p spinal stimulator and dizziness that is under evaluation. She was recently admitted for a heart attack and had stents placed. Due to these issues, she requires more help at home...

Id. at 151.

The parties next addressed each specific request that CCA either modified or denied, as follows:

Transfers

Appellant, through her PCM agency, requested 2 minutes 8 times daily (2x8x7) for assistance with transfers. *Id.* at 85. CCA noted that, according to MassHealth's Time for Task Standards, transfers are defined as the "movement between surfaces to/from: bed, chair, wheelchair, standing position (exclude to/from bath/toilet)." *Id.* at 56. In support of the PCM agency's request, the nurse that conducted the reevaluation noted that Appellant requires minimum assistance with transfers due to pain in her back, legs, and her history of falls. *Id.* at 85, 112. CCA noted that the PCM agency did not request any time for assistance with mobility as Appellant was deemed capable of ambulating independently with the use of a cane. *Id.* at 85.

CCA modified the request for transfers by approving 1 minute per transfer episode (1x8x7). The CCA representatives testified that its determination was based not only the 6/11/24 PCM evaluation, but other available medical records which provided details on Appellant's functional

status. On 2/28/24, Appellant was evaluated by an occupational therapist (OT) to assess her need for VNA services following her hospitalization from a myocardial infarction. According to the report, Appellant had a cardiac catheterization with stent placement at the hospital and was being set home 2/28/24 with VNA services. *Id.* at 22-24. CCA pointed to the fact that the OT evaluator wrote that Appellant was “independent with ADLs” prior to the MI, and that her family assisted with providing IADLs. *Id.* The OT evaluator reported that Appellant lives in multilevel home with her bedroom on the 3rd floor; that she was “modified independent” with two-handed push off for transferring from a seated to standing position, also requiring “distant supervision” for bed transfers. *Id.* CCA testified that the PCA program is intended to provide consumers with physical hands-on assistance; therefore, supervision for transfers was not a reimbursable PCA service. CCA reasoned that because other healthcare professionals reported that Appellant had greater function than was reflected in the PCM agency’s evaluation, it appropriately authorized a 50% reduction from 2 minutes per transfer episode to one minute per episode.

Appellant’s representative testified that it takes more than two minutes to perform transfers, and that transition time is prolonged to due chronic levels of pain and unsteady gait. Documentation from the previous PA period indicated that Appellant received 2 minutes per transfer episode. *Id.* at 140. Appellant’s representative testified that given her heart attack, increased weakness, and risk of falls, she needs all the PCA hours that were requested. He described that Appellant lives in a multilevel home with three flights of stairs; and that it takes Appellant increasingly longer to get out of bed due to chest and back pain. She has undergone surgery on her right wrist and still suffers from chronic nerve damage. The representative testified that that she is not as capable as the OT assessment depicts, including the fact that she cannot use both hands to “push off” for transfers. He also noted that the VNA clinician had performed the evaluation in the hospital after the heart attack, without having seen Appellant’s condition prior to the hospitalization. In addition, he argued that that the evaluation was done in February 2024. In comparison, he argued, the PCM agency has been familiar with Appellant’s case for years, and that the evaluation was in June, which more accurately reflects her current needs.

Bathing

Appellant, through her PCM agency, requested 20 minutes per day (20x1x7) for moderate assistance with bathing tasks. *Id.* at 87. According to the PA request, Appellant requires moderate assistance with showering activities, including the “PCA to assist [with] transfers in/out over tub edge, assist wash/rinse/dry [lower body] and backside, no DME to assist with the task; consumer with dizziness, pain weakness, multiple falls; bathroom on upper floors of the home only (4 floors total). *Id.* at 87. The PCM agency also noted that Appellant’s functional capability was further limited by her dyspnea and increased fatigue. *Id.*⁵

⁵ CCA approved Appellant’s request for .78 hours per week for grooming tasks and 1.4 hours per week for

CCA reduced the time for assistance for bathing to 15 minutes per day (15x1x7). CCA pointed to the note from the VNA OT evaluation indicating that Appellant only requires minimal assistance with bathing. Contrary to the PCM evaluation, the OT evaluation states that Appellant does, in fact, have DME to assist with bathing, including a shower seat and handheld showerhead. *Id.* at 24, 37. CCA testified that given these factors, 15 minutes should be sufficient for the PCA to provide minimal assistance with transferring in and out of tub, drying, and some washing.

Appellant's representative reiterated that Appellant needs more assistance than she did in the last prior authorization period given her worsening physical condition. Specifically, the PCA assists in disrobing Appellant for the shower and transferring her into and out of the shower, which was notably not a walk-in shower. According to the representative, Appellant can participate with most, but not all washing tasks; she cannot bend below her knees; and she has limited ability to use her hands. Her functional limitations are a result of her chronic pain, limited use of her hands, and unsteady gait. He noted that anything with water makes it more dangerous and felt this was an area of care that was not appropriate to reduce given the increased risk of falls.

Nighttime Toileting Assistance

Under the ADL category of toileting, Appellant requested 5 minutes two times per night (5x2x7) for toileting assistance.⁶ *Id.* at 85, 92. It was also noted that Appellant requested, and was approved for daytime toileting assistance (bladder and bowel care) at 2.68 hours per week. *Id.* at 106. In support of its request for assistance with all toileting tasks, including both night and day, the PCM agency provided the same rationale, namely, to assist Appellant with hygiene, clothing management, and transfers. *Id.* at 127. As a preliminary matter, CCA explained that when a consumer requests any nighttime PCA assistance, the request must be rounded up to the nearest hour and no less than 2 hours per night. *Id.* at 93. As such, the request for nighttime toileting assistance was processed as 2 hours per night or 14 hours per week.⁷

CCA denied the request for nighttime toileting assistance (0x0). *Id.* at 37. The CCA representatives testified that medical documentation, including the OT evaluation, did not support this request. CCA asserted that Appellant was independent for mobility and capable of getting out of bed and ambulating to the bathroom. As previously stated, the OT evaluation reported that Appellant could use the toilet independently with the use of a comfort height toilet seat riser and could dress

dressing/undressing. *Id.* at 106.

⁶ CCA explained that if an individual requests any nighttime PCA care, they must submit the request by rounding up to the next hour with a minimum of 2 hours per night or 14 hours per week.

⁷ A review of the 6/13/24 PA request indicated that Appellant also sought time for nighttime medication assistance. *Id.* at 87. While CCA did not identify this request as having been modified, it does not appear that any nighttime PCA services were included in the 11.25 hours initially authorized.

independently with set up help only. This medical information, CCA asserted, contradicted the statements in the PCM evaluation, which indicated Appellant required assistance with clothing management and that she did not use DME to assist with toileting care.

Appellant's representative testified that nighttime toileting is likely when Appellant requires the highest degree of assistance and is at most risk for fall. This is partly due to all the medications she is on, which make her both groggy and dizzy. He testified that Appellant requires physical assistance going to the restroom, and while she does, at times, use the seat riser, she needs help positioning onto it as she does not have a firm grip and can easily slip.

IADL Modifications

CCA testified that, pursuant to the level 1 appeal, it upheld the decision to deny Appellant's requests for meal preparation at 315 minutes per week, laundry at 45 minutes per week, and housekeeping at 45 minutes per week. According to CCA, the three IADL denials were based on documentation that indicated Appellant was married and living with her spouse. Given the availability of a legally obligated family member to assist Appellant in performing household IADLs, CCA denied the requests as non-covered PCA services. Through a post-hearing record open period, Appellant submitted additional medical records to demonstrate the spouse's inability to assist Appellant in performing IADLs due to his own debilitating health conditions. See Exh. 12. Upon review, CCA agreed to overturn its decision to deny the three IADLs, approving in full the times requested. As a result of this adjustment, CCA increased Appellant's total allotted hours from 11.25 hours per week to 18 hours per week retroactive to 7/14/24. See Exhs. 13-15.

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 chronic nerve pain, chronic asthma, HTN, coronary artery disease, senile cataracts and myopia of both eyes, anxiety disorder, lumbar radiculopathy, right hand weakness, chronic wrist pain, ulnar impaction syndrome or TFCC, radial styloid tenosynovitis, tinnitus, chest pain, shortness of breath, bilateral leg edema, hypokalemia, left knee pain, and ongoing dizziness that is currently under evaluation.
3. Appellant's relevant medical history includes a myocardial infraction on [REDACTED] with subsequent stent placement; a fracture of the right hand; 3 fractured spinal discs,

multiple falls, a spinal stimulator placed on [REDACTED] and increased fatigue since March 2023.

4. On 6/11/24, a registered nurse from Ind. Assoc. conducted an in-home reevaluation of Appellant to determine her ongoing need for PCA services; at the time of the reevaluation, Appellant had been receiving 32.25 hours per week of PCA services since 5/1/23.
5. On 6/13/24, Appellant's PCM agency submitted a PA request to CCA on behalf of Appellant seeking 33.5 hours of PCA services per week for dates of service 7/1/24 through 6/30/25.
6. On 6/27/24, CCA partially approved Appellant's PA request by authorizing 10.25 hours per week effective 7/14/24 and ending 6/30/25 (extending her existing PA for 32.25 hours through 7/13/24).
7. On 10/11/24, pursuant to Appellant's request for a level 1 appeal, CCA upheld its decision to modify and/or deny Appellant's request for PCA assistance with mobility/transfers, bathing, nighttime toileting assistance, and the IADLs of meal preparation, laundry, and housekeeping; however, CCA overturned its decision to deny Appellant's request for shopping assistance at 60 minutes per week thereby increasing Appellant's total authorization for PCA services to 11.25 hours per week.

Transfer Assistance

8. Appellant, through her PCM agency, requested 2 minutes 8 times daily (2x8x7) for minimum assistance with transfers.
9. CCA modified the request for transfers by approving 1 minute per transfer episode (1x8x7).

Bathing Assistance

10. Appellant, through her PCM agency, requested 20 minutes per day (20x1x7) for moderate assistance with bathing tasks, including transfers in/out over tub edge, assist wash/rinse/dry [lower body] and backside.
11. CCA modified this request by reducing the time for assistance for bathing to 15 minutes per day.

Nighttime Toileting Assistance

12. Under the ADL category of toileting, Appellant requested 5 minutes two times per night (5x2x7) for assistance with toileting tasks, including hygiene, clothing

management, and transfers.

13. CCA denied Appellant's request for nighttime toileting assistance; however, approved his request for daytime toileting assistance.

IADL Modifications

14. In its 10/11/24 level 1 appeal determination, CCA upheld its decision to deny Appellant's requests for meal preparation at 315 minutes per week, laundry at 45 minutes per week, and housekeeping at 45 minutes per week.
15. During a post-hearing record open period, CCA reviewed new documentation regarding the spouse's medical conditions, causing it to overturn the three denied IADLs, thereby increasing Appellant's total allotted hours from 11.25 hours per week to 18 hours per week retroactive to 7/14/24.

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.⁸ 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. 9(b), p. 53.

Under the PCA program, MassHealth sets forth the following eligibility criteria for members to qualify for PCA services:⁹ 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:

⁸ 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.

⁹ 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.

- (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.

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 for 33.5 hours of weekly PCA services (comprised of 19.5 daytime hours and 14-night hours) and authorizing only 11.25 hours of PCA 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 PCA eligibility criteria have been met to enroll in the PCA program, 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.

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 transfers, bathing, nighttime toileting assistance, meal preparation, laundry, and housekeeping. During the post-hearing record open period, CCA agreed to overturn the modifications made to the latter three IADL categories. Specifically, CCA agreed to approve the time requested for meal preparation at 315 minutes per week, housekeeping at 45 minutes per week, and laundry at 45 minutes per week, bringing the total authorization for PCA services to 18 hours per week. As all issues related to the modified IADLs resolved in Appellant’s favor, this appeal is DISMISSED-in-part pursuant to 130 CMR §§ 610.051(B), 610.035.

The appeal is APPROVED-in-part with respect to the ADLs of transfers and bathing. According to the PA request, Appellant requested 2 minutes 8 times per day for minimum assistance with transfers (2x8x7) and 20 minutes per day for moderate assistance with bathing (20x1x7). CCA authorized 1x8x7 for transfers and 15x1x7 for bathing. The basis for both modifications was primarily due to conflicting information, which CCA asserted, was contained in a 2/28/24 OT evaluation. In the OT evaluation, Appellant was identified as “modified independent” requiring only “distant supervision” with transfers and requiring minimum assistance with bathing activities through use of a handheld showerhead and shower seat. The OT evaluation, however, does not hold as much weight as the more recent reevaluation by the PCM agency on 6/11/24, which was performed contemporaneously with the PA request. Notably, the OT assessment was focused on ascertaining Appellant’s need for post-hospitalization VNA services following a myocardial infarction in February 2024, rather than her ongoing need for ADL assistance due to underlying chronic and pre-existing health conditions. The OT assessment was conducted in the hospital by a clinician that was not as familiar with Appellant’s case as was the PCM agency, which over the course of several years, evaluated her in the home setting. In addition, Appellant provided credible testimony and supporting medical documentation indicating that Appellant requires more assistance with bathing and transfer activities than authorized by CCA due to chronic pain, unsteady gait, weakness in her right hand, among other conditions that limit her functional capabilities. Appellant’s request for 20 minutes per day for moderate assistance for bathing at and 2 minutes for minimal assistance per transfer episode is supported by the record and is consistent with the time standards provided in the time-for-task tool, as incorporated into CCA’s MNG #80. See Exh. 9(a).

The appeal is also APPROVED-in-part with respect to nighttime toileting assistance. Appellant successfully demonstrated that her request for 10 minutes per night for toileting assistance was appropriate and within the scope of covered PCA services. CCA denied any time for toileting assistance based on several factors including the 2/28/24 OT evaluation as described above, as well as the fact she was deemed independent with mobility/ambulating, and her use of assistive devices. Despite such factors, CCA did approve Appellant’s request for all daytime toileting

episodes. According to the PA request, the PCM agency provided the same comments to justify its request for day and nighttime toileting assistance, namely Appellant's unsteady gait, her risk for falls, chronic pain, and her need for assistance with toileting transfers and clothing management. Although the OT evaluation indicated that Appellant was "modified independent" with seated to standing transfers using a two-handed push off, Appellant rebutted this statement with testimony regarding the limited use of her right hand due to fracture, chronic pain, and nerve damage. In addition, several medical records that were submitted into evidence which further documented these functional limitations. Appellant's request for 10 minutes per night for minimal assistance for toileting is supported by the record and is consistent with the time standards provided in MassHealth's time-for-task tool, as incorporated into CCA's MNG #80.

Order for ICO

For the current PCA prior authorization period, approve 2x8x7 for transfers, 20x1x7 for bathing, and 10 minutes per night for toileting assistance as requested by Appellant.¹⁰ In addition, ensure that agreed-upon increases to the IADLs have been implemented. All increases are to be made retroactive to beginning of prior authorization period – 7/14/24.

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:

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

¹⁰ It is noted that this decision is limited to the issue of whether Appellant's request for 10 minutes per night was appropriate for toileting assistance; however, in accordance with program rules, CCA may process this as 2 hours per night.

