

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Approved in part; Denied in part; Dismissed in part	Appeal Number:	2417723
Decision Date:	2/14/2025	Hearing Date:	01/06/2025
Hearing Officer:	Marc Tonaszuck	Record Open to:	

Appearance for Appellant:

Pro se

**Appearances for Commonwealth Care Alliance
Integrated Care Organization:**

Cassandra Horne, Elaine Cahill, Kaley Emery,
and Jeremiah Mancuso



*The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
Board of Hearings
100 Hancock Street, Quincy, Massachusetts 02171*

APPEAL DECISION

Appeal Decision:	Approved in part; Denied in part; Dismissed in part	Issue:	Managed Care Organization – Denial of Internal Appeal
Decision Date:	2/14/2025	Hearing Date:	01/06/2025
Commonwealth Care Alliance Integrated Care Organization Reps.:	Cassandra Horne, Elaine Cahill, Kaley Emery, and Jeremiah Mancuso	Appellant's Rep.:	Pro se
Hearing Location:	Springfield MassHealth Enrollment Center	Aid Pending:	Yes

Authority

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

Jurisdiction

Through a notice dated 11/13/2024, Commonwealth Care Alliance (CCA) One Care, an integrated care organization (ICO) which contracts with MassHealth, notified the appellant that it denied his Level 1 appeal regarding his request for personal care attendant services (Exhibit 1). The appellant filed a timely appeal with the Board of Hearings on 11/18/2024 and he continues to receive last year's level of PCA services pending the outcome of this appeal (130 CMR 610.015(B); Exhibit 2). A decision to deny or provide limited authorization of a requested service by a managed care organization, including the type or level of service, including determinations based on the type or level of service, requirements for medical necessity, appropriateness, setting, or effectiveness of a covered benefit is valid grounds for appeal (130 CMR 610.032(B)).¹

¹ An integrated care organization (ICO) is defined in 130 CMR 508.001 as "One Care plans." Members enrolled in an ICO (One Care plan) are participants in the Duals Demonstration (eligible for both MassHealth and Medicare), also known as "One Care." MassHealth members who are 21 through 64 years of age at time of enrollment may enroll in

Action Taken by ICO

Commonwealth Care Alliance (CCA) modified a request for personal care attendant (PCA) services.

Issue

The appeal issue is whether CCA was correct in modifying the appellant's request for PCA services.

Summary of Evidence

Representatives from Commonwealth Care Alliance (CCA) testified that the appellant is a MassHealth member who is in his 60's and has participated in the CCA One Care ICO program since 01/01/2014. CCA's One Care Option program is a MassHealth ICO for individuals dually eligible for Medicare and Medicaid benefits. The appellant is legally blind.

Ms. Horne testified that the appellant was previously approved for 42.5 day/evening hours plus 14 night/week of PCA services. He had his annual PCA evaluation on 9/20/2024, which requested a reduced amount of 41.75 day/evening plus 14 night hours/week. CCA reviewed this and further modified the request to approve 30.5 hours/week total.

Modifications were made in the areas of dressing/undressing, night-time hours, medical transportation, mailing/paperwork, and breakfast meal preparation.

At the start of the fair hearing, the representatives from CCA testified that the time requested for assistance with medical transportation was restored in full to the requested 353 minutes per week.

Dressing/Undressing

The appellant's provider, [REDACTED] ("GSSI" or "provider"), submitted a request for 7 minutes, 2 times per day, 7 days per week (7 X 2 X 7) for assistance with dressing and 5 X 2 X 7 for assistance with undressing. CCA modified the request for assistance with dressing to 7 X 1 X 7 and undressing to 5 X 1 X 7. The CCA representatives testified that time for assistance with dressing is usually once per day to help the appellant get dressed for the day and then undressed at night before going to bed.

The appellant testified that he is "totally blind," and he takes showers twice a day, requiring assistance with dressing and undressing twice a day. He testified that his day does not usually follow daylight, since he is blind. He takes one of his showers at 12:01 a.m. every night and gets dressed

an ICO pursuant to 130 CMR 508.007(A).

at about 12:30. Later in the day, at approximately 6:00 p.m. he takes another shower and needs to be dressed and undressed.

Mr. Mancuso restored the full time requested for dressing and undressing based on the appellant's testimony.

Night Time Hours

The appellant's provider requested 14 hours per week for night time attendant services. CCA denied the time. The CCA representatives testified that the documentation states the appellant only takes one shower a day, which generally takes place in the morning hours. Therefore, there is no time necessary for assistance at night.

The appellant testified that because requires assistance showering and dressing after midnight, his hours should be approved.

Mr. Mancuso, on behalf of CCA, restored the night time hours (14 hours per week) requested based on the appellant's testimony.

Mailing/Paperwork

The appellant's provider requested 20 minutes per day for assistance with mailing and paperwork. CCA modified the request to 10 minutes per day. The CCA representatives testified that 20 minutes per day is excessive for assisting the appellant with his mailing and paperwork.

The appellant testified that because of his impairments, he is not able to do anything on his computer. The PCA spends time on the computer helping him, specifically typing documents, stamping and sending letters, and using email.

Meal Preparation and Clean-Up (Breakfast)

The appellant's PCA provider requested 20 X 1 X 7 for assistance with breakfast preparation and clean-up. The provider noted that the appellant is "totally dependent for breakfast." CCA modified the time requested for assistance with breakfast to 15 X 1 X 7. The CCA representatives testified that the appellant is able to assist with other tasks and should be able to be cued or guided so that he can assist, in part, with the task.

The appellant testified that the PCA "does it all," when it comes to meal preparation. The appellant is not able to assist with cooking. He requests the "same hours as before."

Findings of Fact

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

1. The appellant is a MassHealth member who is in his 60's. He enrolled in the CCA One Care ICO program on 01/01/2014.
2. CCA's One Care Option program is a MassHealth ICO for individuals dually eligible for Medicare and Medicaid benefits.
3. The appellant is legally blind.
4. The appellant was previously approved for 42.5 day/evening hours plus 14 night/week of PCA services.
5. The appellant had his annual PCA evaluation on 9/20/2024, which requested a reduced amount of 41.75 day/evening plus 14 night hours/week.
6. CCA reviewed the PCA evaluation and modified the request to 30.5 hours/week total.
7. CCA made modifications in the areas of dressing/undressing, night-time hours, medical transportation, mailing/paperwork, and breakfast meal preparation.
8. At the start of the fair hearing, the CCA representatives testified that all PCA time requested for medical transportation was restored.
9. The appellant's provider, [REDACTED] (GSSI), submitted a request for 7 minutes, 2 times per day, 7 days per week (7 X 2 X 7) for assistance with dressing and 5 X 2 X 7 for assistance with undressing.
10. CCA modified the request for assistance with dressing to 7 X 1 X 7 and undressing to 5 X 1 X 7.
11. The CCA representatives testified that time for assistance with dressing is usually once per day to help the appellant get dressed for the day and then undressed at night before going to bed.
12. The appellant is dressed and undressed twice a day after showering. His first shower and dressing take place every night immediately after midnight.
13. At the fair hearing, the CCA representatives agreed to restore the time requested for dressing and undressing.

14. The appellant's provider requested 14 hours per week for night time attendant services.
15. CCA denied the request for night time services.
16. The CCA representatives testified that the documentation states the appellant only takes one shower a day during the day.
17. The appellant testified that he takes two showers a day, one at night time (after midnight) and the second during the day.
18. At the fair hearing, the CCA representative testified that the night time attendant hours would be restored, based on the appellant's testimony.
19. The appellant's provider requested 20 minutes per day for assistance with mailing and paperwork.
20. CCA modified the request for assistance with mailing and paperwork to 10 minutes per day.
21. The appellant's PCA provider requested 20 X 1 X 7 for assistance with breakfast preparation and clean-up. The provider noted that the appellant is "totally dependent for breakfast."
22. CCA modified the time requested for assistance with breakfast to 15 X 1 X 7.
23. The appellant is able to assist with other tasks and should be able to be cued or guided so that he can assist, in part, with breakfast preparation and clean up.

Analysis and Conclusions of Law

The appellant is participating in Commonwealth Care Alliance's (CCA) One Care program, which is a MassHealth integrated care organization (ICO). 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. Upon enrollment, the ICO is required to provide evidence of its coverage, the range of available covered services, what to do for emergency conditions and urgent care needs, and how to obtain access to specialty, behavioral health, and long-term services and supports.

Under 130 CMR 508.010, MassHealth members who are enrolled in MassHealth-contracted ICO are entitled to a fair hearing under 130 CMR 610.018: *MassHealth: Fair Hearing Rules* if the ICO

internal appeals process denies a member's requested covered benefits in whole or in part. The member may appeal to the Office of Medicaid Board of Hearings.

Under 130 CMR 450.204, the MassHealth agency will not pay a provider for services that are not medically necessary and may impose sanctions on a provider for providing or prescribing a service or for admitting a member to an inpatient facility where such service or admission is not medically necessary. 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. 130 CMR 450.204(A)

At issue is a determination by Commonwealth Care Alliance, a MassHealth-contracted ICO, that the appellant's needs for personal care attendant services have decreased from time approved previously. The appellant had his annual PCA evaluation on 9/20/2024, through which his provider requested 41.75 day/evening plus 14 night hours/week. CCA reviewed this modified the request to approve 30.5 hours/week total. After an internal appeal, CCA denied the appeal, and the appellant now seeks relief at the Board of Hearings.

At the start of the fair hearing, CCA restored all time requested in the area of medical transportation. This portion of the appeal is therefore dismissed.

After hearing the appellant's testimony regarding other modifications, the representatives from CCA restored all time requested in the areas of dressing/undressing and night time hours. This portion of the appeal is therefore approved.

The appellant's provider requested 20 minutes per day for assistance with mailing and paperwork. CCA modified the request for assistance with mailing and paperwork to 10 minutes per day. CCA based its decision on its determination that 20 minutes per day for this task is excessive. The appellant could not explain the amount of time the PCA needs to assist him with his mailing and paperwork. He requested the same amount of time he was approved for in past years. CCA's modification is supported by the documentation and the regulations. The appellant was unable to

articulate what time is necessary for assistance with mailing and paperwork. He has not met his burden of showing that CCA's decision is incorrect. Thus, this portion of the appeal is denied.

The appellant's PCA provider requested 20 X 1 X 7 for assistance with breakfast preparation and clean-up. The provider noted that the appellant is "totally dependent for breakfast." CCA modified the time requested for assistance with breakfast to 15 X 1 X 7. CCA based its determination on documentation in the PA request that the appellant is able to be assist with other tasks, once he is cued or guided. CCA asserted that the appellant should be able to assist in some small way with his breakfast preparation and clean up.

The appellant testified that he is not able to assist with the task at all. He did not explain why he is not able to prepare a small cold breakfast or microwave a meal independently. Also, he did not address why he is unable to bring his plate to the kitchen from the table or to wash a small amount of dishware. CCA's modification is supported by the regulations and the facts in the hearing record. This portion of the appeal is therefore denied.

For the foregoing reasons, this appeal is approved in part; denied in part; dismissed in part.

Order for CCA

Release aid pending. Restore all PCA time as requested in the areas of dressing/undressing, night time hours, and medical transportation. For all other modifications, none.

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, Division of Medical Assistance, at the address on the first page of this decision.

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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Marc Tonaszuck
Hearing Officer
Board of Hearings

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