

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2418625
<b>Decision Date:</b>	2/3/2025	<b>Hearing Date:</b>	January 16, 2025
<b>Hearing Officer:</b>	Brook Padgett		

**Appellant Representative:**



**MassHealth/MCO Representatives:**

Cassandra Horne, Commonwealth Care Alliance  
Appeals and Grievances Supervisor  
Jeremiah Mancuso, RN – Appeals Reviewer



***Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
Office of Medicaid  
Board of Hearings  
100 Hancock Street, 6<sup>th</sup> floor  
Quincy, MA 02171***

## APPEAL DECISION

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	130 CMR 456.409 Denial of Internal Appeal, Skilled Nursing Services
<b>Decision Date:</b>	2/3/2025	<b>Hearing Date:</b>	January 16, 2025
<b>MassHealth MCO Rep.:</b>	C. Horne	<b>Appellant Rep.:</b>	Pro se
<b>Hearing Location:</b>	Quincy via telephone		

### Authority

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

### Jurisdiction

The appellant received from Commonwealth Care Alliance (CCA), a MassHealth integrated care organization (ICO), a Notice of Denial of a Level 1 Appeal, dated December 02, 2024 stating “On 11/04/2024 your healthcare provider asked us to reconsider our decision to authorize the following: Skilled Nursing – 60 days. ... **The Level 1 Appeal as denied.**” (Exhibit 1). The appellant appealed this action timely on December 05, 2024. (130 CMR 610.015(B); Exhibit 2). Denial of a request for prior authorization is valid grounds for appeal (130 CMR 610.032).

### Action Taken by MassHealth MCO

CCA has denied the appellant’s prior authorization request for skilled nursing visits for medicine administration and then denied the appellant’s Level 1 appeal of that denial.

### Issue

Does the appellant require skilled nursing service visits for medicine administration?

## Summary of Evidence

CCA was represented by the Manager of Appeals who testified telephonically and stated the appellant has been a CCA One Care member since March 01, 2019. The appellant was previously approved for twice daily skilled nursing visits (SNV) , including medication administration, off and on since becoming a CCA member. CCA terminated the appellant's prior authorization (PA) request for medication administration on November 08, 2024 as the appellant is also authorized 42 minutes per week for medication administration as part of her 52.75 weekly PCA hours. The appellant, her agency and appellant's mother are arguing the appellant will only take her medications from the skilled nurse and not the PCA.

The CCA nurse reviewer testified the appellant is [REDACTED] and has a diagnosis of Myotonic muscular dystrophy (inherited muscular dystrophy (MD) that causes progressive muscle degeneration and weakness), major depressive disorder (one episode), pain, and mild intellectual disability. The appellant is not homebound. All of the appellant's medications are administered orally and are contained in a lock box. CCA acknowledged that the appellant does have a history of noncompliance with self-administering medication; however, a skilled nurse is not necessary to monitor compliance. CCA testified that claims indicate the appellant has refilled only four medications consistently in the past six months and questioned why a lock box was required as none of the medications (Naproxen, Banophen, laroTRlgine, Lrica, Mondafil, Tylenol) are addictive or have a high degree of toxicity.

CCA notified the appellant beginning December 19, 2024 she would have a partial approval for SNV for four weeks to allow the agency time to educate and train the appellant's PCA to eventually take over medicine administration. The SNV over the four weeks would be as follows: once daily for one week, then three times per week for one week, then two times per week for one week, then one time per week for one week. CCA maintains there is insufficient evidence that the appellant is incapable of transitioning to her PCA for medication administration.

CCA determined four weeks is sufficient time for PCA education and training to administer the appellant's oral medications and is a duplication of time, as there is currently time authorized for the PCA to administer her medications twice daily. The appellant was without any SNVs for most of 2023 and did not have observable negative health outcomes, despite reportedly being in a high stress situation. A CCA assessment on June 08, 2023 indicated the following: Appearance: Neat; Speech: Normal; Eye Contact: Normal; Motor Activity: Normal; Affect: Full; Mood: Anxious; Depressed, Orientation Impairment: None; Memory Impairment: None; Attention: Normal; Behavior: Cooperative; Observed Insight: Good; Observed Judgment: Good.

The appellant stated she needs to have her nurse provide her medications. The appellant explained that the nurse reminds her that she needs to take her medication and then makes sure she takes them. The appellant stated that she often finds it difficult to swallow her pills and the nurse helps her swallow.

The nurse reviewer questioned if the appellant had tried alternative methods of taking her pills such as taking them with applesauce.

The appellant's nurse testified that the appellant no longer uses a lock box and that her medication was administered from a pill planner. The nurse stated that because she has recently not been coming every day, she can see that the appellant has decompensated as she has not been taking her medication. The nurse argued SNV are required seven days a week not only to deliver medicine but to assess the appellant's mental status, coping skills, disease process, and medication management due to the complexity of care and the appellant's high-risk psych diagnoses. The nurse maintains that without this level of care the appellant is at a higher risk for re-hospitalization, disease progression, reduced functional ability, lower quality of life with possible serious health complications, and possible fatality.

CCA responded that the appellant was eligible for aid pending the outcome of the appeal and reinstated the appellant's PA for one SNV per day for medication administration until a decision is issued. CCA further stated they would coordinate with the appellant's provider if the CCA action was upheld so that the PCA would be trained during a reinstated time period.

The nurse responded that she is unsure if she could train the PCA as she comes to the appellant's house very early in the morning and even though she has been coming to the appellant once or twice a day, seven days a week, she has never been at the appellant's house during the 7.5 hours the PCA is with the appellant.

## **Findings of Fact**

Based on a preponderance of the evidence, I find:

1. The appellant is [REDACTED] has been a member of CCA One Care since March 01, 2019. (Testimony).
2. The appellant has a diagnosis of MD, pain, and mild intellectual disability. (Exhibit 4).
3. The appellant was previously approved for twice daily SNV, including medication administration. (Testimony, Exhibit 4).
4. The appellant is approved for 42 minutes of PCA time per week by CCA for the purpose of

medication administration. (Exhibit 4).

5. All of the appellant's medications are administered orally. (Exhibit 4).
6. Claims for the last 90 days indicate the appellant has only refilled four medications consistently in the past six months, none of the medications are addictive or have a high degree of toxicity. (Exhibit 4).
7. The appellant has a history of noncompliance with self-administering medication. (Exhibit 4).
8. CCA authorized four weeks for education and training for the PCA to learn how to administer the appellant's oral medications. (Exhibit 4).
9. An assessment performed on June 08, 2023 indicated: Appearance: Neat, Speech: Normal, Eye Contact: Normal, Motor Activity: Normal, Affect: Full, Mood: Anxious, Depressed, Orientation Impairment: None, Memory Impairment: None, Attention: Normal, Behavior: Cooperative, Observed Insight: Good, Observed Judgment: Good. (Exhibit 4).
10. The appellant maintains she needs to have a licensed skilled nurse to make sure she takes her medication as well help her swallow her pills when she has difficulty. (Exhibit 4).
11. The appellant maintains she will only take medications from the skilled nurse and not the PCA. (Testimony and Exhibit 4).

## **Analysis and Conclusions of Law**

Effective February 26, 2016, prior authorization requirements for intermittent skilled nursing services and home health aide services were added to the regulations at 130 CMR 403.410. Only medically necessary skilled nursing services and related home health aide services will be approved. 130 CMR 403.415(A); 130 CMR 403.416(A). Medical necessity is defined as the most conservative and least costly treatment that is available to a member to prevent, diagnose, alleviate, correct, or cure conditions in the member. See 130 CMR 450.204(A). MassHealth will not pay for services that are available from another coverage source. 130 CMR 450.204(A).

Nursing services are payable where there is a clearly identifiable, specific medical need for nursing services and those services cannot "be safely and effectively performed (or self-administered) by the average nonmedical person without the direct supervision of a registered or licensed practical nurse ... ." 130 CMR 403.415(A)-(B). A medication administration visit will only be allowed when the member is unable to perform the task due to impaired physical, cognitive, behavioral, and/or emotional issues, no able caregiver is present, the member has a history of failed medication

compliance resulting in a documented exacerbation of the member's condition, and/or the task of the administration of medication, including the route of administration, requires a licensed nurse to provide the service. 130 CMR 403.415(B)(7).<sup>1</sup>

I find there is nothing in the medical record which indicates the appellant's current medical condition requires skilled nursing services for medication administration or that her condition meets a level of complexity that requires the training of a skilled licensed nurse to administer her oral medication as required by the regulations. The appellant noted that she sometimes has difficulty swallowing her pills and that the nurse helps her with this issue. The record does not clarify how the nurse helps the appellant swallow. However, as CCA persuasively pointed out, there are alternative methods of ingestion that the appellant could try, such as mixing the pills with applesauce, which would not require the assistance of a skilled nurse.

The appellant does have a history of medication non-compliance and testified she requires a skilled nurse to remind her to take her medication. However, the appellant has been approved for PCA assistance to help with medication administration. Therefore, the appellant's request here represents a duplication of services.

Thus, although there is evidence the appellant has difficulty self-administering her medications, the current record fails to establish that she meets the clinical requirements of 130 CMR 403.415 or that once the appellant's PCA is trained he or she cannot remind and ensure the appellant successfully takes her medication.

This appeal is therefore DENIED.

## **Order for MassHealth MCO**

CCA will coordinate with the appellant's provider to schedule PCA training for medicine administration from the date of this decision.

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<sup>1</sup> 130 CMR 403.415: Nursing Services (B) Clinical Criteria (7) Medication Administration Visit. A nursing visit for the sole purpose of administering medication may be considered medically necessary when the member is unable to perform the task due to impaired physical, cognitive, behavioral, and/or emotional issues, no able caregiver is present, the member has a history of failed medication compliance resulting in a documented exacerbation of the member's condition, and/or the task of the administration of medication, including the route of administration, requires a licensed nurse to provide the service. A medication administration visit may include administration of oral, intramuscular, and/or subcutaneous medication or administration of medications other than oral, intramuscular and/or subcutaneous medication.

## 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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Brook Padgett  
Hearing Officer  
Board of Hearings

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

