

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Approved in part; Denied in part	<b>Appeal Number:</b>	2419450
<b>Decision Date:</b>	2/26/2025	<b>Hearing Date:</b>	01/28/2025
<b>Hearing Officer:</b>	Casey Groff		

**Appearance for Appellant:**  
*Pro se*

**Appearance for SCO:**  
Cassandra Horne, Operations Manager,  
Appeals & Grievances; Commonwealth Care  
Alliance ("CCA");  
Jeremiah Mancuso, R.N., Clinical RN Manager,  
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

<b>Appeal Decision:</b>	Approved in part; Denied in part	<b>Issue:</b>	Managed Care Organization – Denial of Internal Appeal
<b>Decision Date:</b>	2/26/2025	<b>Hearing Date:</b>	01/28/2025
<b>CCA's Rep.:</b>	Cassandra Horne; Jeremiah Mancuso	<b>Appellant's Rep.:</b>	<i>Pro se</i>
<b>Hearing Location:</b>	Board of Hearings (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 an internal appeal determination notice dated 11/27/24, the Commonwealth Care Alliance (CCA), a senior care organization (SCO) and managed care contractor (MCC) for MassHealth, notified Appellant that it had denied her level 1 appeal regarding her prior authorization (PA) request for home health skilled nursing visits. *See* Exhibit (Exh.) 1. Appellant filed a timely appeal with the Board of Hearings (BOH) on 12/20/24. *See* Exh. 2. Denial of assistance is valid grounds for appeal.<sup>1</sup> *See* 130 CMR 610.032(B).

### Action Taken by SCO

Through an internal level 1 appeal, CCA upheld its denial of Appellant's PA request for home health skilled nursing services.

---

<sup>1</sup> Fair Hearing regulations at 130 CMR 610.032(B) set forth the specific bases under which any enrollee of an MCC, including SCO enrollees, may request a fair hearing. Grounds for appeal include, but are not limited to, the MCC's failure to provide services in a timely manner; a decision to deny or provide limited authorization of a requested service; and a decision to reduce, suspend or terminate a prior authorization for a service.

## Issue

The appeal issue is whether CCA, in its capacity as a SCO and managed care contractor for MassHealth, correctly upheld its determination to deny Appellant's request for home health skilled nursing services.

## Summary of Evidence

Representatives for Respondent, Commonwealth Care Alliance (CCA) appeared at the hearing and presented the following evidence through testimony and documentary submissions: Appellant is [REDACTED] or older and is enrolled in CCA's senior care options (SCO) plan. Initially, Appellant was enrolled in CCA's One-Care Plan in or around August 2014, however she was recently transitioned to CCA's SCO plan, which continues to manage both her Medicare and Medicaid benefits. See Exh. 4, pp. 50-53. Since her enrollment in 2014, Appellant has been receiving home health services through CCA, as this is a covered MassHealth benefit. *Id.* at 55.

Documentation submitted by CCA shows that Appellant has numerous diagnoses, including bipolar disorder, arthritis, chronic pain, chronic depression, attention deficient disorder, cryptogenic organizing pneumonia, hypertension, asthma, COPD, morbid obesity, and urinary incontinence; osteoarthritis, recurrent cystitis, and recurrent urinary tract infections (UTIs). *Id.* at 12-14; 40-50. She has a history of pulmonary embolism. *Id.* at 45. She is occasionally dependent on supplemental oxygen.

On 10/15/24, CCA received a prior authorization (PA) request from [REDACTED] Appellant's home health agency (HHA), seeking continued skilled nursing visits (SNV) two times per week (or 19 SNVs total) for dates of service 10/10/24 through 12/8/24. *Id.* at 56-57.

On 10/29/24, CCA denied Appellant's PA request for continued home health services on the basis that the request sought duplicative medication assistance services that were already covered through Appellant's existing authorization for personal care attendant (PCA) services. *Id.* at 92-93. In its denial notice, CCA informed Appellant that it would end her existing SNV services on 11/10/24 to allow time for the home health nurse to transition care to the PCA. *Id.* On 11/5/24, Appellant filed an internal level 1 appeal with CCA to contest the denial of home health services (HHS). *Id.* at 103.

On 11/27/24, after conducting a review of its initial decision, a CCA medical director upheld the 10/29/24 determination which found that the requested home health services were duplicative of covered PCA services and were not medically necessary. As explained in the level 1 appeal determination notice, CCA based its determination on Medical Necessity Guideline (MNG) Title: Home Health Services Certified: Senior Care Option and One Care #112, which states:

CCA does not consider Home Health Services to be medically necessary under certain circumstances. Examples of such circumstances include, but are not limited to, the following:

1. The service is for a disorder not associated with a medical or behavioral health condition.
2. The service replicates concurrent services provided in a different setting with similar treatment goals, plans, and therapeutic modalities.
3. The service replicates concurrent services provided by a different provider in the same setting with similar treatment goals, plans, and therapeutic modalities.

*Id. at 94.*

At hearing, the representatives from CCA testified that Appellant is currently authorized for 52.75 hours per week of PCA services, which includes 42 minutes per week, (comprised of 2 minutes 3x daily (2x3x7)) for assistance with medication administration due to chronic pain. The CCA representatives testified that Appellant takes mostly oral medications. The time allotted is for the PCA to assist Appellant with taking her medications three times throughout the day. CCA testified that there was no documentation to suggest Appellant receives any medications that require administration to be performed by a skilled nurse, such as intravenous medications or intramuscular injections. The current PA request for HHS indicates that the nurse is providing mostly medication assistance and medication management tasks that could be performed by the PCA. In reaching the decision for the level 1 appeal, the reviewing CCA medical director concluded that Appellant's "PCA can communicate further health concerns to providers, can continue to provide medication assistance, etc.... as these currently do not require a skilled nurse with the member's current presentation." *Id. at 104.*

The CCA representatives testified that the documentation submitted by the home health agency shows that Appellant has been fairly stable during the prior 60-day certification period. The documentation indicates that Appellant continues to live alone; she did not have any falls, UTIs, behavioral health episodes, need for oxygen use, or medication issues during the prior certification period; and, except for one visit to the emergency department for a suspected infection, Appellant did not have any recent inpatient visits that would require follow-up from a skilled nurse.

At hearing, Appellant testified that she disagreed with CCA's decision to end her skilled nursing visits. She testified that since 2014, she has consistently had visiting nursing services, which continue to be medically necessary in addition to PCA services. Appellant testified that the most important reason she needs her nurse is because her nurse is the one that manages her medication lock box. Appellant testified that she is prescribed numerous narcotic medications, including oxycodone for pain. In the past, if she or others try to fill it, the narcotic count always

ends up being off. She has two PCAs and neither of them have access to the lock box. Appellant testified that she also cannot access the medication box. Appellant testified that every week, her nurse will fill her medication box and then fill her weekly pill case, so that she, with the help of her PCA's, can self-administer the medications needed throughout the week. The only thing her PCAs do related to medication is retrieve the weekly pill case (that has already been filled by the nurse) and help give them to her at the appropriate dosage time. She testified that she does not feel that the PCAs are qualified to fill the lock box, nor manage her numerous medications, which she has relied on her nurse to do for years. Appellant testified that she lives by herself. She is physically compromised and unable to do anything herself. She testified that she was struggling to even make it through the hearing. She relies on her nurse to manage all of her medications. Appellant testified that because of her chronic conditions, as well as having just had shoulder surgery, she requires daily pain medication. It is too important of a responsibility to manage on her own or have her PCAs manage. Appellant also stated that she has cryptogenic organizing pneumonia and requires routine nursing lung assessments.

A review of the home health services recertification request indicates that Appellant is prescribed a total of 19 different medications, most of which are administered orally at least once per day. *Id.* at 87. Her prescriptions include multiple psychotropic medications and controlled pain medications. *Id.* Records show that Appellant has been on a long-term anticoagulant therapy, as well as long-term prescription opiate use for pain management. *Id.* at 9-12. In its review, the home health agency noted that Appellant has a history of noncompliance with medication treatment and regimen; she has idiopathic recurrent pneumonia and recurrent urinary tract infections (UTI's), although she had no infections in the prior 60-day certification period. *Id.* at 63-66.

The home health nurse reported that Appellant continues to require skilled nursing visits to perform physical and mental assessments, administration and management of medications, and to provide education and coordination of care. *Id.* at 88. Specifically, the agency's plan of care included the following nursing orders: assess pain levels; inform physician and reconcile significant medication issues; interventions for treatment of depression; monitor the effectiveness of drug therapy, drug reactions and side effects; prefill medication containers, check for symptoms of psychotropic medication use and effectiveness, assess vital signs, including oxygen saturation, blood pressure, heart rate, respiratory status; and report any abnormal vital signs to Appellant's physician. *Id.* at 63-66. Encounter notes reflect that the nurse provides PCA instruction to prompt Appellant to take medications at scheduled dosing times due to Appellant's forgetfulness and history of medication non-compliance. *Id.* at 85.

In addition, at the time Appellant appealed the 10/29/24 initial denial, Appellant's home health nurse spoke with CCA in support of continued nursing services. Documentation from the call shows that the nurse informed CCA that it is difficult for Appellant to monitor her diagnoses and make sure she is taking her medication properly due to the instability of her mental illness; Appellant has a past history of medication non-compliance; she is very limited mobility-wise

and isolated with no support other than her nurse and PCA; and she is unable to recognize when emergency medical care is needed. *Id.*

## Findings of Fact

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

1. Appellant is [REDACTED] or older and is enrolled in CCA's SCO plan.
2. Appellant has received SNV through CCA since 2014.
3. Appellant has numerous diagnoses, including bipolar disorder, arthritis, chronic pain, chronic depression, attention deficient disorder, cryptogenic organizing pneumonia, hypertension, asthma, COPD, morbid obesity, urinary incontinence, osteoarthritis, recurrent cystitis, recurrent UTIs, and a history of pulmonary embolism.
4. On 10/15/24, CCA received a PA request from Appellant's HHA seeking continued SNVs two times per week (or 19 SNVs total) for dates of service 10/10/24 through 12/8/24.
5. On 10/29/24, CCA denied Appellant's PA request for continued home health services on the basis that the request sought duplicative medication assistance services that were already covered through authorized PCA services.
6. On 11/5/24, Appellant filed an internal level 1 appeal with CCA to contest the denial.
7. On 11/27/24, after conducting a review of its initial decision, a CCA medical director upheld the 10/29/24 determination.
8. Appellant is currently authorized for 42 minutes per week (comprised of 2 minutes 3x daily (2x3x7)) for her PCA to assist her in taking her medications at three scheduled dosage times throughout the day.
9. Appellant is prescribed a total of 19 different medications, most of which are administered orally at least once per day and include multiple psychotropic medications and controlled pain medications.
10. Appellant cannot access the medication lockbox, and neither of her two PCAs have access to the lockbox.
11. Appellant testified that every week, her home health nurse fills the medication box and weekly pill case, which allows her to self-administer medications (with the help of her

PCA) throughout the week.

12. Appellant has a history of noncompliance with medication treatment and regimen.

## Analysis and Conclusions of Law

The issue on appeal is whether MassHealth erred in denying Appellant's PA request for 2 skilled nurse home health visits (SNVs) per week. MassHealth will only pay for home health services when all of the following conditions are met: (1) there is a clearly identifiable, specific medical need for nursing services; (2) the services are ordered by the member's provider and are included in the plan of care; (3) the services require the skills of a registered nurse (RN) or licensed practical nurse (under RN supervision); and (4) the services are medically necessary<sup>2</sup> to treat an illness or injury in accordance with 130 CMR 403.409(C); and (5) prior authorization is obtained pursuant to 130 CMR 403.410. *See* 130 CMR 403.415(A).

In addition to the aforementioned requirements, MassHealth sets forth the following clinical criteria for members seeking coverage of skilled nursing visits (SNVs) under the home health program:

- (1) A nursing service is a service that must be provided by a registered nurse, or by a licensed practical nurse under the supervision of a registered nurse, to be safe and effective, considering the inherent complexity of the service, the condition of the member, and accepted standards of medical and nursing practice.
- (2) Some services are nursing services on the basis of complexity alone (for example, intravenous and intramuscular injections, or insertion of catheters). However, in some cases, a service that is ordinarily considered unskilled may be considered a nursing service because of the patient's condition. This situation occurs when only a registered nurse or licensed practical nurse can safely and effectively provide the service.
- (3) When a service can be safely and effectively performed (or self-administered) by the average nonmedical person without the direct supervision of a registered or licensed practical nurse, the service is not considered a nursing service, unless there is no one trained, able, and willing to provide it.
- (4) Nursing services for the management and evaluation of a plan of care are

---

<sup>2</sup> MassHealth considers a service to be "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, suitable for the member requesting the service, that is more conservative or less costly to MassHealth. Services that are less costly to MassHealth include, but are not limited to, health care reasonably known by the provider, or identified by MassHealth 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).

medically necessary when only a registered nurse can ensure that essential care is effectively promoting the member's recovery, promoting medical safety, or avoiding deterioration.

(5) Medical necessity of services is based on the condition of the member at the time the services were ordered, what was, at that time, expected to be appropriate treatment throughout the certification period, and the ongoing condition of the member throughout the course of home care.

(6) A member's need for nursing care is based solely on his or her unique condition and individual needs, whether the illness or injury is acute, chronic, terminal, stable, or expected to extend over a long period.

(7) Medication Administration Visit. A skilled 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.

See 130 CMR 403.415(B).

MassHealth has published the following guidance for determining whether a skilled nursing visit is medically necessary when its primary purpose is to administer medications and assess the member's response:

- i. Medication administration services may be considered medically necessary when 1) medication administration is prescribed to treat a medical condition; 2) a member has no able caregiver present, 3) the task requires the skills of a licensed nurse, and 4) at least one of the following conditions apply:
    - a. the member is unable to perform the task due to impaired physical or cognitive issues, or behavioral and/or emotional issues;
    - b. the member has a history of failed medication compliance resulting in a documented exacerbation of the member's condition.
  - ii. An MAV visit includes administration of the medication, documentation of that administration, observing for medication effects both therapeutic and adverse, reporting adverse effects to the ordering practitioner and soliciting and addressing whatever questions or concerns the member may have.
- ....



- v. Certain medication administration tasks do not require the skills of a licensed nurse, unless the complexity of the member's condition or medication regimen requires the observation and assessment of a licensed nurse to safely perform. Such conditions include the following:
  - a. Administration of oral, aerosolized, eye, ear and topical medication, which requires the skills of a licensed nurse only when the complexity of the condition(s) and/or nature of the medication(s) require the skilled observation and assessment of a licensed nurse and/or the member/caregiver is unable to perform the task.
  - b. filling of weekly/monthly medication box organizers, which requires the skills of a licensed nurse only when the member/caregiver is unable to perform the task.

*See Guidelines for Medical Necessity Determination for Home Health Services § 2(A)(3)(c), p. 4. (MNG-HHS) (Rev. 10/24).*

In addition, MassHealth regulations state the following with respect to the availability of other caregivers: "When a family member or other caregiver is providing services, including nursing services, that adequately meet the member's needs, it is not medically necessary for the home health agency to provide such services." *See* 130 CMR 403.408(D). Consistent with this coverage limitation, CCA, under its own published guidelines, states that home health services are not considered medically necessary in certain circumstances, including instances where "the service replicates concurrent services provided by a different provider in the same setting with similar treatment goals, plans, and therapeutic modalities." *See* Exh. 4, p. 94.

While a member may be eligible to receive home health services and PCA services concurrently, MassHealth directs home health agencies, in such cases, to ensure that any home health services are not duplicative of PCA services for which the member is authorized." *See MassHealth Home Health Agency Bulletin 84*, p. 2. (April 2023). In such cases, MassHealth instructs HHS providers to "communicate these hours to the member's PCM agency to ensure that the PCM agency can request appropriate adjustments to the PCA PA, as needed, to avoid duplication." *Id.*

In the present case, Appellant's home health agency sought continued SNVs, twice per week for a 60-day recertification period starting 10/8/24 through 12/8/24. CCA denied the request, finding that the requested services were duplicative of an active authorization for PCA services, which included 42 minutes per-week (2x3x7) for Appellant to receive medication administration assistance. The evidence shows that Appellant is prescribed a total of 19 different medications, including multiple psychotropic medications and controlled pain medications. *See* Exh. 4 at 87. The home health agency noted that Appellant has a history of medication noncompliance, and that she has a number of physical and behavioral conditions that prevent her from independently taking and managing her medication regimen. *Id.* at 63-66. At hearing, Appellant testified that her PCAs assist her in taking medications at scheduled dosage times

throughout the day but clarified that they do not manage her medication lockbox, nor do they refill her weekly medications. Appellant testified that it is her visiting nurse who maintains responsibility for stocking prescription medications in her lockbox and then organizing them in the weekly dispenser to be self-administered, with PCA assistance, throughout the week. Appellant lives alone and does not have any unpaid caregivers that would otherwise be able to perform this task. The documentation submitted by the home health agency also reflects the distinctive roles the nurse and PCA each have with respect to medication-related tasks. The recertification request and encounter notes document the nurse's role in instructing the PCA to prompt Appellant for medications at scheduling dosing times due to Appellant's forgetfulness and history of medication non-compliance. See Exh. 4 at 85. In addition, the home health plan of care includes orders for the nurse to check for symptoms of psychotropic medication use and effectiveness; reconcile significant medication issues with Appellant's physician; monitor the effectiveness of drug therapy, drug reactions and side effects; and to assess vital signs. *Id.* at 63-66. Given that Appellant's PCA is *not* allotted time for managing and refilling Appellant's prescription medications, her PA request for concurrent nursing visits did not seek coverage for a "duplicative" service. However, because this task is completed only once per week, the appeal is APPROVED in part as Appellant demonstrated medical necessity for 1 SNV per week. The appeal is DENIED in part as there was insufficient evidence of medical necessity to authorize the request for a second weekly nursing visit.

## **Order for SCO**

Approve 1 SNV per week for 60 days starting from the date of receipt of this hearing decision.<sup>3</sup>

## **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.

## **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.

---

<sup>3</sup> For continued services beyond 60 days, Appellant must submit a new request for prior authorization as the prior authorization period ended 12/8/24.

---

Casey Groff  
Hearing Officer  
Board of Hearings

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