

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



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|-------------------------|---------------|------------------------|-----------|
| Appeal Decision: | Denied | Appeal Number: | 2504804 |
| Decision Date: | 07/11/2025 | Hearing Date: | 4/30/2025 |
| Hearing Officer: | Cynthia Kopka | Record Open to: | 5/28/2025 |

Appearances for Appellant:



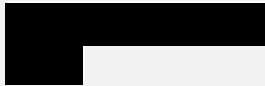
Appearances for Respondent CCA:

Cassandra Horne, Appeals and Grievances
Manager
Jeremiah Mancuso, Clinical RN Appeals and
Grievances Manager
Kaley Ann Emery, Appeals Supervisor



*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

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|---------------------------|--|--------------------------|---|
| Appeal Decision: | Denied | Issue: | Personal care attendant services |
| Decision Date: | 07/11/2025 | Hearing Date: | 4/30/2025 |
| Respondent's Rep.: | Cassandra Horne, Jeremiah Mancuso, Kaley Ann Emery | Appellant's Rep.: |  |
| Hearing Location: | Quincy (remote) | Aid Pending: | Yes |

Authority

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

Jurisdiction

By notice dated March 17, 2025, Commonwealth Care Alliance (CCA), a MassHealth Integrated Care Organization (ICO), denied Appellant's Level I appeal, partially denying Appellant's request for personal care attendant (PCA) service hours. Exhibit 1. Appellant filed this appeal in a timely manner on March 25, 2025 and was eligible to keep the previous benefit level pending the outcome of the appeal. Exhibit 2. 130 CMR 610.015(B), 130 CMR 610.036. Denial of assistance is a valid basis for appeal. 130 CMR 508.010, 130 CMR 610.032(B).

Action Taken by Respondent

CCA partially denied Appellant's request for PCA service hours.

Issue

The appeal issue is whether Appellant is eligible for more PCA service hours than approved by CCA.

Summary of Evidence

CCA's representatives, including an appeals and grievances supervisor, nurse review manager, and appeal supervisor appeared by phone and provided written materials in support. Exhibits 4 and 5. Appellant appeared by phone with her family member and PCA and submitted documents in support. Exhibit 6. A summary of testimony and written materials follows. Appellant has been enrolled in CCA's OneCare program since April 1, 2021. The request on appeal was for personal care attendant (PCA) services. On February 12, 2025, CCA reviewed Appellant's request for 67.25 hours of PCA services (including 14 weekly night hours) and issued a partial approval, reducing Appellant's hours to 57.5 PCA hours weekly. On February 19, 2025, Appellant filed a Level I appeal. On March 12, 2025, a medical director partially approved the appeal, increasing the approved PCA time to 59.25 hours per week. Exhibit 4 at 1. CCA mailed written notice of the Level I determination on March 17, 2025. *Id.* at 169. Appellant was eligible for aid pending protecting the prior level of benefits, 67.25 PCA hours per week. CCA's nurse reviewer testified that the 67.25 PCA hours per week were maintained from a May 6, 2024 appeal before the Board of Hearings (BOH) on that resulted in the withdrawal of the BOH appeal to allow a new evaluation. However, the PCM agency did not perform the new evaluation until January 10, 2025. As a result of that evaluation, the PCM agency requested 62.5 hours per week, less than the level that has been protected. CCA's nurse reviewer argued that the 67.25 hours decision was an artifact at this time, but nevertheless protected it.

CCA's reduction of hours stemmed from an adjustment to one activity of daily living (ADL), passive range of motion (PROM). The evaluator determined that Appellant required maximum assistance with PROM on her left side only. *Id.* at 54-55. The evaluator requested 20 minutes, 2 times per day, 7 days per week for PROM assistance on Appellant's upper left extremity (280 minutes per week) and 25 minutes, 2 times per day, 7 days per week for PROM assistance on Appellants lower left extremity (350 minutes per week). *Id.* Initially, CCA had modified the request to 15 minutes, 1 time per day, 7 days (105 minutes total x 2) per week for each left extremity, which is what the PCM agency had asked for the previous yearly evaluation. After the Level I appeal, CCA approved 15 minutes, 2 times per day, 7 days (210 minutes total x 2) per week for each left extremity. This increase was deemed necessary upon review of medical records showing that Appellant had been unable to get her Botox injections for several months causing an increase of spasticity. *Id.* at 1. The appeal reviewer also noted that after Appellant's recent fall and emergency room (ER) visit, she reported decreased strength, range of motion (ROM), and increased spasms at her physical therapy (PT) evaluation. This justified an increase in the frequency of episodes of PROM, not the increase of time per episode. *Id.*, see also Exhibit 6 at 7.

CCA's nurse reviewer testified the amount of time per PROM episode was modified because it is considered excessive as provided by MassHealth time-for-task guidelines. Exhibit 4 at 35-36. Generally, PROM is only intended for individuals who need the PCA to do the entire task because they have no functional use of the limbs, and the range to approve is between 10-30 minutes.

CCA's nurse reviewer testified that given the effects of Appellant's aneurysm and CVA in 2017, effects from a stroke would be residual at this time and an increase in time was not properly explained or documented by the PCM agency. CCA's nurse reviewer testified that typically for stroke symptoms, after a period of six months to one year from onset, there is not going to be significant improvement or significant decline in limb function for purposes of PROM, though it may affect functional ability in other ADLs.

Appellant and her representatives provided medical notes from multiple providers supporting her need for more PCA hours. Exhibit 6. These documents did not specify the time or frequency needed for PROM. Appellant and her representatives testified that since Appellant's fall in February 2025, she has received orders from her PT and occupational therapist (OT) to do a new set of exercises on top of the PROM she was previously receiving. Appellant's legs were hyperextended at the time of her fall and her Botox injections were not working effectively.

Appellant and her representatives described examples of the two sets of exercises that she has to do. For the first set, done twice per day, Appellant is transferred to her bed and the PCA lifts her left leg up to her chest twenty times and does a side kick twenty times with each leg. For her arm, the PCA lifts her arm twenty times and opens and closes Appellant's hand. For the second set of exercises, also done twice per day, Appellant sits in a chair and opens and closes her leg. Because her Botox injections have not been working, Appellant's PCA has to physically move her leg for her. Then Appellant stands at the kitchen sink with her PCA behind her. Appellant slowly moves from sitting to standing while pulling up on the sink, with her PCA holding her chair. Appellant must also walk up and down the ramp to get into her home.

CCA's nurse reviewer testified that documentation from the PT and OT following the fall and hospitalization referenced a home exercise program but did not define the program in the paperwork. The doctor's orders as developed by the PT and OT include "to establish/upgrade home exercise program and provide therapeutic exercises and soft tissue/joint mobilization designed to restore functional strength and ROM." *Id.* at 10. CCA's nurse reviewer testified that some exercises ordered by PT and OT may not fit the definition of PROM. PROM is not the same thing as a home exercise program but may be part of a home exercise program. CCA pointed to MassHealth's time for task tool which defines PROM and describes a PCA's permitted duties for the task:

Passive Range-of- Motion Exercises

Physically assisting the member to perform passive range-of-motion exercises

Movement applied to a joint or extremity by another person solely for the purpose of maintaining or improving the distance and direction through which a joint can move; or to alleviate pain or reduce severe spasms/cramping.

Average range: Upper extremities: 10 – 30 minutes, Lower extremities: 10 – 30

minutes

Id. at 35. CCA's nurse reviewer argued that based on the testimony offered, the exercises described as being done while Appellant is in the bed would be PROM, but standing up at the sink, performing squats, or anything on the unaffected right side extremities would be active range of motion (AROM) and not payable under the PCA program.

Appellant's representatives reiterated that the PCA is assisting Appellant with standing and squatting because she needs help with the left leg. Appellant also needs a spotter when she does exercises, as she loses balance. Someone has to be behind Appellant with the wheelchair in case she loses balance. Appellant has lost balance and has been caught a few times.

Appellant's representatives advocated for more time in other areas of care. Appellant's representatives expressed concern about the PCM agency being unresponsive and delayed in performing requested evaluations. This causes Appellant stress and tension, which affects her blood pressure. CCA offered guidance on how to switch PCM agencies.

The hearing record was held open for Appellant to provide clearer evidence from her providers regarding PROM and for CCA to review and respond. Exhibit 6. Appellant submitted medical records from her PT including the evaluation from February 21, 2025 and follow up visits dated February 27, 2025 through April 21, 2025. Exhibit 7. These notes reference Appellant's home exercise program, which included a recommendation to sit to stand for 5 repetitions twice per day with a caregiver holding her wheelchair behind her. *Id.* at 27. The PT recommended ten repetitions of other exercises including ankle pumps and sitting marches. *Id.* at 29. A note from March 4, 2025 added a wheelchair pushup to the exercises and required verbal cues for complete motion with the left leg. *Id.* at 34. On March 7, 2025, the PT added standing therapy and recommended Appellant perform this with help. *Id.* at 40. The PT noted improvement once Appellant was able to get her Botox injection. *Id.* at 58.

CCA's annotated Appellant's submission, offering comments throughout the 127 page document. Exhibit 8. CCA highlighted references on pages 27, 29, 34, 36, 40, 41-42, 46, 48, 52, 54, 58, 62, 67, 79, 90, 93, 95, 100, 109, 110, and 126 of Appellant's submission, asserting that the document either was not specific enough as to what part of the home exercise program met the definition of PROM and what was defined would constitute AROM. *Id.* at 128. There were some notes indicating that time could be requested for the PCA to assist with the home exercise program under the category of "other health needs" upon completing a new evaluation for PCA services. *Id.* at 27. Another note indicated that Appellant performed a self-PROM movement without the PCA's assistance. *Id.* at 79. CCA commented that the PT's recommendation that Appellant have 24 hour care due to her fall risk would be considered possible and preventative care, not covered by the PCA program. *Id.* at 109. The final visit discharging Appellant from PT indicated that Appellant requires ongoing assistance in order to do her home exercise program twice daily, but did not offer detail about what assistance is needed or whether it would meet the definition of PROM. *Id.*

at 126. CCA noted that the majority of exercises documented were AROM with PCA providing stand-by assistance, or would be covered under other PCA ADL tasks not under appeal. *Id.* CCA concluded that it would maintain what was approved on appeal, which was 15 minutes, 2 times per day, 7 days per week for assistance with PROM on each left extremity. *Id.*

Findings of Fact

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

1. Appellant has been enrolled in CCA's OneCare program since April 1, 2021.
2. On February 12, 2025, CCA reviewed Appellant's request for 67.25 hours of PCA services (including 14 weekly night hours) and issued a partial approval, reducing Appellant's hours to 57.5 PCA hours weekly.
3. On February 19, 2025, Appellant filed a Level I appeal.
4. On March 17, 2025, CCA notified Appellant that it partially approved the appeal, increasing the approved PCA time to 59.25 hours per week. Exhibit 1.
5. Appellant filed this appeal in a timely manner on March 25, 2025 and was eligible to keep the previous benefit level pending the outcome of the appeal. Exhibit 2.
6. In the area of PROM, the evaluator determined Appellant required maximum assistance on the left side. Appellant's PCM agency requested 20 minutes, 2 times per day, 7 days per week for PROM assistance on Appellant's upper left extremity (280 minutes per week) and 25 minutes, 2 times per day, 7 days per week for PROM assistance on Appellants lower left extremity (350 minutes per week). Exhibit 4 at 54-55.
7. After the internal appeal, CCA approved 15 minutes, 2 times per day, 7 days (210 minutes total) per week for each left extremity.
8. Twice a day, Appellant is transferred to her bed and the PCA lifts her left leg up to her chest twenty times and does a side kick twenty times with each leg. For her arm, the PCA lifts her arm twenty times and opens and closes Appellant's hand.
9. Appellant's PT has ordered home exercises which included sit to stand exercises, ankle pumps, sitting marches, wheelchair pushups, standing therapy and ambulation. Appellant requires assistance to perform these exercises. Exhibit 7.

Analysis and Conclusions of Law

MassHealth members younger than 65 years old, except those excluded under 130 CMR 508.004, must enroll in the Primary Care Clinician (PCC) Plan or a MassHealth-contracted MCO available for their coverage type. 130 CMR 450.117(A) and 130 CMR 508.002. MassHealth managed care options include an integrated care organization (ICO) for MassHealth Standard and CommonHealth members who also meet the requirements for eligibility set forth under 130 CMR 508.007. Members who participate in an ICO obtain all covered services through the ICO. 130 CMR 450.117(K).

A member may enroll in an ICO if he or she meets the following criteria:

(A) Eligibility.

(1) In order to be eligible to enroll in an integrated care organization (ICO), a MassHealth member must meet all of the following criteria, and may not be enrolled or concurrently participate in any of the programs or plans listed in 130 CMR 508.007(F):

- (a) be 21 through 64 years of age at the time of enrollment;
- (b) be eligible for MassHealth Standard as defined in 130 CMR 450.105(A): *MassHealth Standard* or MassHealth CommonHealth as defined in 130 CMR 450.105(E): *MassHealth CommonHealth*;
- (c) be enrolled in Medicare Parts A and B, be eligible for Medicare Part D, and have no other health insurance that meets the basic-benefit level as defined in 130 CMR 501.001: *Definition of Terms*; and
- (d) live in a designated service area of an ICO.

130 CMR 508.007.

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. 130 CMR 508.007(C). ICO members may appeal a determination made by an ICO to the Board of Hearings pursuant to 130 CMR 508.010.

CCA's One Care Plan is a MassHealth ICO. CCA's One Care Member Handbook, pertinent pages included as Exhibit 5, provides which services the plan covers, including PCA services. Exhibit 5 at 91. Prior authorization is required for PCA services. *Id.*

Pursuant to 130 CMR 422.403(C), MassHealth will pay for PCA services for members appropriately cared for at home when the following conditions are met:

- (1) The PCA services are authorized for the member in accordance with 130 CMR 422.416.
- (2) The member's disability is permanent or chronic in nature and impairs the member's functional ability to perform ADLs and IADLs without physical assistance.
- (3) The member, as determined by the PCM agency, requires physical assistance with two or more of the ADLs as defined in 130 CMR 422.410(A).
- (4) The MassHealth agency has determined that the PCA services are medically necessary.

Pursuant to 130 CMR 450.204(A), a service is medically necessary if it is:

- (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.

MassHealth covers assistance with the following tasks under the PCA program (emphasis added):

422.410: Activities of Daily Living and Instrumental Activities of Daily Living

(A) Activities of Daily Living (ADLs). Activities of daily living include the following categories of activities. Any number of activities within one category of activity is counted as one ADL:

- (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.

(B) Instrumental Activities of Daily Living (IADLs). Instrumental activities of daily living include the following:

- (1) household services: physically assisting with household management tasks that are incidental to the care of the member, including laundry, shopping, and housekeeping;
- (2) meal preparation and clean-up: physically assisting a member to prepare meals;
- (3) transportation: accompanying the member to medical providers; and
- (4) special needs: assisting the member with:
 - (a) the care and maintenance of wheelchairs and adaptive devices;
 - (b) completing the paperwork required for receiving PCA services; and
 - (c) other special needs approved by the MassHealth agency as being instrumental to the health care of the member.

(C) Determining the Number of Hours of Physical Assistance. In determining the number of hours of physical assistance that a member requires under 130 CMR 422.410(B) for IADLs, the PCM agency must assume the following.

- (1) When a member is living with family members, the family members will provide assistance with most IADLs. For example, routine laundry, housekeeping, shopping, and meal preparation and clean-up should include those needs of the member.
- (2) When a member is living with one or more other members who are authorized for MassHealth PCA services, PCA time for homemaking tasks (such as shopping, housekeeping, laundry, and meal preparation and clean-up) must be calculated on a shared basis.
- (3) The MassHealth agency will consider individual circumstances when determining the number of hours of physical assistance that a member requires for IADLs.

PROM is defined by regulation as “movement applied to a joint or extremity by another person solely for the purpose of maintaining or improving the distance and direction through which a joint can move.” 130 CMR 422.402. Under 130 CMR 422.412(C), MassHealth does not cover as part of the PCA program “assistance provided in the form of cueing, prompting, supervision, guiding, or coaching.”

Here, it is undisputed that Appellant qualifies for PCA services. The issue in dispute is the amount of time for PCA services that is medically necessary to assist Appellant with PROM. Appellant argued that she requires PCA assistance with her home exercise program as ordered by the PT. Appellant's representatives argued that the PCA assists Appellant with moving her left limbs through the exercises and acts as a spotter in case Appellant falls. CCA argued that the exercises identified by Appellant's PT are active exercises that do not meet the definition of PROM.

The exercises Appellant and her representatives described as being performed with Appellant lying in bed and her PCA moving her left limbs meet the definition of PROM, for which CCA approved a total of 210 minutes per week for each limb. However, the exercises ordered by the PT and described in the materials submitted do not meet the regulatory definition of PROM. Further, acting as a spotter for Appellant would constitute supervisory assistance which is not covered by regulation. Finally, CCA indicated that Appellant may be eligible for additional time for assisting with these movements as "other health needs" or for an increase of time in other ADLs such as mobility. For these reasons, this appeal is denied.

Order for Respondent

None.

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.

Cynthia Kopka
Hearing Officer
Board of Hearings

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

[REDACTED]