



**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/170843

PRELIMINARY RECITALS

Pursuant to a petition filed December 16, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability (Department) in regard to Medical Assistance (MA), a telephonic hearing was held on January 21, 2016, at Appleton, Wisconsin. The record was held open one day post-hearing to allow petitioner's guardian to submit additional information, which was received.

The issue for determination is whether the OIG correctly determined the number of personal care worker (PCW) hours for petitioner pursuant to her prior authorization (PA) request.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

█

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By written submittal of: [REDACTED], RN

Division of Health Care Access and Accountability
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:

Kelly Cochrane
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Outagamie County. She is 7 years old and diagnosed with traumatic brain injury due to shaken baby syndrome, urinary incontinence and blindness. She has a g-tube to meet her nutritional needs.
2. On August 8, 2015 the petitioner's personal care provider requested prior authorization on petitioner's behalf for 45 hours/180 units per week of PCW services, Skilled Nursing visits twice daily 5 days per week, and 20 units/5 hours per week of PCW travel time (PA # [REDACTED]) to begin September 2, 2015.
3. By a notice dated November 23, 2015, the Department modified the requested hours for PCW services and granted 108 units of PCW services, 20 units per week of PCW travel time, and one skilled nursing visit.

DISCUSSION

MA coverage of PCW services is described in the Wis. Adm. Code, §DHS 107.112. Covered services are specified in subsection (1), and are defined generally as "medically oriented activities related to assisting a recipient with activities of daily living necessary to maintain the recipient in his or her place of residence in the community." Examples of covered services are assistance with bathing, with getting in and out of bed, with mobility and ambulating, with dressing and undressing, and meal preparation. In determining the number of PCW hours to authorize the OIG uses that standard along with the general medical necessity standard found at Wis. Adm. Code, §DHS 101.03(96m). It provides:

“Medically necessary” means a medical assistance service under ch. DHS 107 that is:

- (a) Required to prevent, identify or treat a recipient's illness, injury or disability; and
- (b) Meets the following standards:
 1. Is consistent with the recipient's symptoms or with prevention, diagnosis or treatment of the recipient's illness, injury or disability;
 2. Is provided consistent with standards of acceptable quality of care applicable to the type of service, the type of provider, and the setting in which the service is provided;
 3. Is appropriate with regard to generally accepted standards of medical practice;
 4. Is not medically contraindicated with regard to the recipient's diagnoses, the recipient's symptoms or other medically necessary services being provided to the recipient;
 5. Is of proven medical value or usefulness and, consistent with s. DHS 107.035, is not experimental in nature;
 6. Is not duplicative with respect to other services being provided to the recipient;
 7. Is not solely for the convenience of the recipient, the recipient's family, or a provider;
 8. With respect to prior authorization of a service and to other prospective coverage determinations made by the department, is cost-effective compared to an alternative medically necessary service which is reasonably accessible to the recipient; and
 9. Is the most appropriate supply or level of service that can safely and effectively be provided to the recipient.

Wis. Admin. Code, §DHS 101.03(96m).

To determine the number of PCW hours to authorize the OIG uses the Personal Care Screening Tool, a computer program it believes will allow it to consistently determine the number of hours required by each recipient. The screening tool allots a specific amount of time in each area the recipient requires help,

which the OIG's reviewer can then adjust to account for variables missing from the screening tool's calculations.

The problem in this case appears to be how the PA request was submitted in that the petitioner's school schedule complicated the needs for the requested services. When petitioner is not in school (i.e., scheduled "off days", or in the summer) she requires additional services in her home. Based on all the evidence at hearing and the information submitted post-hearing, I find that the petitioner's awarded PCW hours are sufficient to meet her needs, but that an additional skilled nursing visit (SNV) is warranted when petitioner is not in school due to her required feedings which are to take place every 4-4 1/2 hours. Obviously if the petitioner's provider bills for said services (twice daily SNV), the provider should be prepared to back it up with petitioner's school schedule.

Finally, I note for Petitioner that her provider will not receive a copy of this Decision. In order to have the personal care services involved here approved, the Petitioner must provide a copy of this Decision to Preferred Home Health Care. The provider must then submit a new prior authorization request to receive the approved coverage, along with a copy of this Decision.

CONCLUSIONS OF LAW

That the evidence offered on behalf of petitioner is sufficient to demonstrate she requires an additional skilled nursing visit (thus, twice daily) when she is not in school.

THEREFORE, it is

ORDERED

That petitioner's provider may re-submit a PA request for two skilled nursing visits when petitioner is not in school beginning September 2, 2015 of PCW services and its invoice, along with a copy of this decision, to ForwardHealth for payment and ForwardHealth is directed to make payment accordingly.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

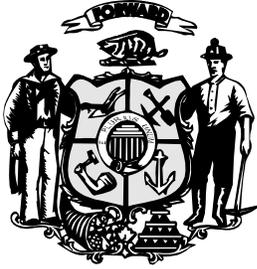
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in

this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 3rd day of March, 2016

\sKelly Cochrane
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on March 3, 2016.

Division of Health Care Access and Accountability