



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

In the Matter of

[Redacted]

DECISION

MPA/172977

PRELIMINARY RECITALS

Pursuant to a petition filed March 18, 2016, 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 in regard to Medical Assistance (MA), a hearing was held on April 28, 2016, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly denied the Petitioner’s PA request for PCW services.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[Redacted] |

Respondent:

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

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

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Milwaukee County. He is 63 years old and resides with family.
2. Petitioner’s primary diagnoses include Parkinson’s disease, CBA and type 2 diabetes. He uses a cane and wears a back brace. Functional limitations include endurance and ambulation.

3. On September 14, 2015, Petitioner was seen by his physician, [REDACTED] to review lab results. It was noted that he has an extensive medical history and was requesting medication refills. He complained of painful urination. No other significant problems were noted. Range of motion was noted to be normal. He was ordered to continue medication for Parkinson's disease. No deficits were noted related to his history of CVA. It was noted that his diabetes is poorly controlled and that he does not follow a diabetic diet.
4. On December 4, 2015, Petitioner was seen by his physician. Petitioner complained of coughing at night and a bad taste in his mouth. He was noted to have skin lesions on his back. It was also noted that Petitioner cancelled neurology appointments over the last two months. He also complained of bilateral hearing loss. He noted that he sometimes has difficulty getting out of bed and agreed that side rails could help.
5. On December 30, 2015, a personal care screening tool (PCST) was completed for the Petitioner. The assessor determined the Petitioner has the following needs:
 - Bathing – Level C – Petitioner must be supervised by a PCW while bathing to prevent falls related to Parkinson's disease, history of CVA and type of shower. Petitioner uses a shower chair.
 - Dressing – Upper – Level B – Petitioner must be supervised.
 - Dressing – Lower – Level C – Petitioner requires assistance to put on socks and lower body clothing.
 - Grooming – Level D – Petitioner needs assistance with nail care, shaving and checking feet
 - Eating – Level C – Petitioner feeds self but requires assistance with meal prep
 - Mobility – Level B – Petitioner requires intermittent supervision or cueing
 - Toileting – Level B – Petitioner toilets self but requires intermittent supervision or cueing
 - Transfers – Level C – Petitioner needs help to prevent falls, uses cane when needed and going up/down stairs
 - Medication Assistance – Level D – Petitioner needs reminders and help opening containers due to Parkinson's.
 - Glucometer Readings – Petitioner checks his own blood sugar but needs reminders, 2x/day.
 - Behaviors – Yes – Petitioner has Parkinson's disease which can affect movements and tremors and possible time consuming for care.
6. On January 8, 2016, the Petitioner's provider, [REDACTED], submitted a PA request for 23.75 hours/week of PCW services for the Petitioner.
7. On February 4, 2016, the agency issued a notice to the Petitioner informing him that the agency denied the request for PCW services.
8. On March 18, 2016, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

Personal care services are “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.” Wis. Admin. Code, §DHS 107.112(1)(a). Covered services include the following:

1. Assistance with bathing;
2. Assistance with getting in and out of bed;
3. Teeth, mouth, denture and hair care;
4. Assistance with mobility and ambulation including use of walker, cane or crutches;
5. Changing the recipient's bed and laundering the bed linens and the recipient's personal clothing;
6. Skin care excluding wound care;
7. Care of eyeglasses and hearing aids;
8. Assistance with dressing and undressing;
9. Toileting, including use and care of bedpan, urinal, commode or toilet;
10. Light cleaning in essential areas of the home used during personal care service activities;
11. Meal preparation, food purchasing and meal serving;
12. Simple transfers including bed to chair or wheelchair and reverse; and
13. Accompanying the recipient to obtain medical diagnosis and treatment.

Wis. Admin. Code, §DHS 107.112(b).

Personal care workers can spend no more than one-third of their time performing housekeeping activities. Like all medical assistance services, PCW services must be medically necessary and cost effective. Wis. Admin. Code, §DHS 107.02(3)(e)1 and 3.

The agency asserts that the medical documentation submitted with the PA does not support PCW services as medically necessary for the Petitioner. It notes that the medical records document that the Petitioner does not have neurological deficits as a result of his diagnosis. It further notes that the PCST documents that the Petitioner requires only supervision for most tasks. PCW time is not allowed for supervision unless the PCW is actively involved in directing the member during the execution of the activity and physically participates in one or more of the steps of the activity. The agency further notes that the medical records indicate the Petitioner's range of motion is normal and there is no indication in the records that Petitioner has tremors.

At the hearing, the Petitioner's caregiver testified that he assists the Petitioner with all activities of daily living due to the Petitioner having back pain and tremors. He also testified that the Petitioner is very forgetful due to Parkinson's and the CVA. The Petitioner's caregiver submitted time sheets demonstrating the time that he provides assistance to the Petitioner with activities of daily living.

While I do not question that the caregiver does provide assistance to the Petitioner as noted in the timesheets, the problem is that the medical records submitted with the prior authorization request do not support the request. There is no indication in the records that the Petitioner has back pain or tremors or any other specific problems with performing activities of daily living. It is the responsibility of the party submitting a prior authorization request for services to provide sufficient evidence and documentation to support the request. Without any medical documentation to demonstrate that the services are medically necessary, the agency properly denied the Petitioner's request.

Nothing in this decision prohibits the Petitioner from submitting another prior authorization request to the Department of Health Services with sufficient medical documentation to support the request. If another request is made, the agency will review that request and the supporting documentation and make a determination based on the information submitted.

CONCLUSIONS OF LAW

The agency properly denied the Petitioner's request for PCW services.

THEREFORE, it is

ORDERED

That the Petitioner's appeal is dismissed.

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 8th day of June, 2016

\sDebra Bursinger
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 June 8, 2016.

Division of Health Care Access and Accountability