



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

Case #: MPA - 173490

PRELIMINARY RECITALS

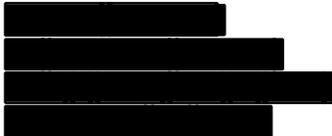
On April 6, 2016, the above petitioner filed a hearing request under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to challenge a decision by the Division of Health Care Access and Accountability regarding Medical Assistance. The hearing was held on May 31, 2016, by telephone.

The issue for determination is whether the agency properly modified the Petitioner's PA request for personal care worker (PCW) services.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:



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Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI53703

By: [Redacted]
Division of Health Care Access and Accountability
PO Box 309
Madison, WI 53701-0309

ADMINISTRATIVE LAW JUDGE:
Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [Redacted]) is a resident of Milwaukee County. He is 83 years old and lives with a paid caregiver.

2. Petitioner has diagnoses that include osteoarthritis, dysphasia related to unspecified cerebrovascular disease. He has a history of Parkinson's disease. Functional limitations include bowel/bladder incontinence, hearing loss, endurance, ambulation, upper extremity tremors. His mental status is described as forgetful and depressed. He uses a walker or wheelchair.

3. On January 12, 2016, a personal care screening tool (PCST) was completed by the Petitioner's provider. The assessor determined that the Petitioner has the following needs:

Bathing – Level E – showers in the a.m. and takes 50 min. bed bath at night due to frequent incontinence. PCW assistance for in/out shower, washing, shampooing, drying off, lotion application. Petitioner uses a shower chair. Assistance required due to hand tremors, stiffness, weakness.

Dressing – upper and lower – Level E – requires assistance with application and removal of shirts, pants, shoes, socks, coats, zippers/buttons, underwear and incontinence products due to stiffness, tremors, weakness.

Braces/splints/hose – requires assistance with application and removal of heel protectors and ted stockings in a.m. and p.m.

Grooming – Level F – requires assistance with oral cares, shaving, nail care, washing face and hands after meals, applying deodorant

Eating – Level E – petitioner has dysphagia secondary to Parkinson's disease. Requires soft foods with thickened liquids. Requires assistance with cutting up foods, pouring liquids, supervising eating due to tremors and choking risk.

Mobility – Level D – Requires assistance with walking using the wheelchair with PCW propelling the chair. Hands-on assistance required with the walker due to shuffling steps and freezing up due to Parkinsons and history of falling due to stumbling from shuffled gait.

Toileting – Level D and E – Petitioner wears incontinence products. Has a toileting schedule every 2 hours but continues to be incontinent. Frequent stools. Needs assistance with transfers, clothing adjustment, cleansing, incontinence cares. Toileting and incontinence cares takes 15 – 20 minutes due to stiffness. 5x/day.

Transferring – Level D – Petitioner requires lift assist at all times. PCW holds wheelchair and lifts Petitioner under arms and supports back. Unsteady balance with poor endurance. 10-12 lifts/transfers each day.

Medication Assistance – Level B – needs reminders 3x/day.

Bowel Program – requires insertion of suppository every day. If no bowel movement within one hour, manual removal required. Assistance required with clean up. 20 minutes/day.

Range of Motion – requires assistance with range of motion exercises 2x/day to prevent stiffness and provide maximum function of extremities due to Parkinsons. 40 minutes/day.

The PCST allocated 46.75 hours/week of PCW services.

4. On February 4, 2016, the Petitioner's provider submitted a PA request on behalf of the Petitioner requesting 56 hours/week of PCW services.
5. On February 26, 2016, the agency issued a notice to the Petitioner informing him that the agency modified the PA request and approved 53.75 hours/week of PCW services. Specifically, the agency approved time as follows:

Bathing – 315 minutes/week

Dressing – upper and lower – 140 minutes/week

Grooming – 210 minutes/week

Eating – 140 minutes/week

Mobility – 140 minutes/week

Toileting – 280 minutes/week

Transfers – 210 minutes/week

ROM – 280 minutes/week

Bowel Program – 140 minutes/week

SITs – 805 minutes/week

Total – 2415 minutes for PCW assistance with ADLs and MOTs + 805 minutes for SITs
= 3220 minutes/week (53.75 hours/week)

6. On April 6, 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.

In this case, the agency approved time as requested for all tasks except for bathing, dressing and toileting. At the hearing, the Petitioner’s representatives testified that the Petitioner requires 60 minutes/day for bathing. They testified that due to incontinence the Petitioner requires a shower in the morning and a bed bath in the afternoon. At times, he needs both a shower and bed bath at night because the bowel

incontinence can require extensive cleansing. They testified that they have tried to purchase briefs that are more absorbent but this has not negated the need for additional bathing.

With regard to dressing, the Petitioner's representatives testified that the Petitioner's tremors cause the task to take more time than normal. It generally takes 30 minutes to get the Petitioner dressed and undressed. The Petitioner's representatives also testified that the Petitioner may need up to 5 dressing changes/day due to bowel incontinence. They testified that on a typical day, the Petitioner requires no less than 4 dressing changes.

With regard to toileting, the Petitioner's representatives testified that he is incontinent 4 – 5x/day. He is on a bowel program but continues to have frequent bowel incontinence. The incontinence is extensive and requires extensive cleansing and dressing changes with each episode.

The additional time requested by the Petitioner for bathing and dressing relates primarily to the need for additional cleansing and dressing after incontinence episodes. The PCST Instructions for bathing and dressing state that bathing and dressing tasks related to incontinence episodes should be included in the toileting task and not in the bathing or dressing tasks. PCST Instructions, pages 4 and 5.

Based on the testimony and the medical records, I conclude that the Petitioner's PA request for 56 hours/week of PCW services is medically necessary. Specifically, I conclude the Petitioner requires additional time for toileting due to additional cleansing and dressing tasks needed as a result of frequent bowel and urinary incontinence.

NOTE: Petitioner's representative should be aware that [REDACTED] will not receive a copy of this Decision. In order to have the PCW services approved, Petitioner must provide a copy of this Decision to [REDACTED] and [REDACTED] must then submit a new PA request to receive the approved services.

CONCLUSIONS OF LAW

The Petitioner is eligible for 56 hours/week of PCW services.

THEREFORE, it is ORDERED

That Petitioner's provider, [REDACTED], is hereby authorized to provide the Petitioner with 56 hours/week of PCW services and to submit its claim, along with a new prior authorization request and a copy of this Decision, to ForwardHealth for payment.

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.

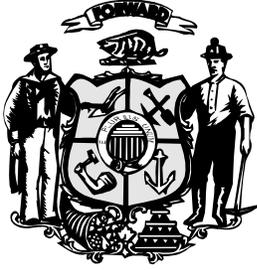
APPEAL TO COURT

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, **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 20th day of July, 2016

\s _____
Debra 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 July 20, 2016.

Division of Health Care Access and Accountability