



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: MPA - 174746

PRELIMINARY RECITALS

Pursuant to a petition filed on May 26, 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 regarding Medical Assistance (MA), a hearing was held on June 28, 2016, by telephone.

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

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

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. She lives alone.
2. Petitioner's diagnoses include: arthropathy, amnesia and shoulder, leg and hip pain. Functional limitations include endurance, ambulation and lifting. Petitioner uses a cane.

3. On March 7, 2016, a personal care screening tool (PCST) was completed for the Petitioner. The assessor determined the Petitioner has the following needs:

Bathing – Level D – Petitioner complains that legs hurt and she has a hard time standing. She complains of arthritis which makes it difficult to bathe without assistance.

Dressing – upper and lower – Level D – Petitioner complains of rotator cuff, causes difficulty in raising arms. Petitioner has back pain when bending.

Grooming – Level D – Petitioner requires assistance due to arthritis pain and rotator cuff, limited mobility and range. Petitioner states pain level is 9 on most days.

Eating – independent

Mobility – Level D – Petitioner recently had foot surgery and brittle bones along with arthritis making it difficult to move around. Petitioner ambulates with can for mobility when PCW is not present.

Toileting – independent

Transferring – Level D – Petitioner complains that back and foot pain is present on a daily basis making it difficult to transfer.

Medication Assistance – Level D – Petitioner has bouts of dementia, frequently forgets things. PCW assist with cueing Petitioner to take meds.

4. On March 7, 2016, the Petitioner’s provider, [REDACTED] submitted a PA request for 19.5 hours/week of PCW services for the Petitioner. Subsequent PAs were submitted in response to the agency’s request for additional information. On or about May 17, 2016, the agency modified the Petitioner’s PA request to approve the following:

Bathing – 210 minutes/week

Dressing – 140 minutes/week

Grooming – 70 minutes/week

Eating – 0

Mobility – 0

Toileting – 0

Transferring – 0

Medication Assistance – 0

Services Incidental to tasks – 140 minutes/week

Total time approved was 560 minutes/week (9.3 hours/week)

5. On May 26, 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.

At the hearing, the Petitioner testified that the amount of time allocated for bathing and dressing is sufficient. She conceded that she is independent with eating and toileting. With regard to grooming, the Petitioner testified that she requires assistance with hair care because she cannot reach overhead due to pain in her shoulders. She also requires assistance with nail care due to pain in her hands and back pain with bending. She is able to brush her teeth independently. With regard to mobility, the Petitioner testified that she uses a cane to get around her home. Time is not allowed for mobility when the member is able to get around her home with the use of an assistive device. Petitioner also uses her cane to help her with transfers. As with mobility, time for PCW assistance is not allowed if a member can transfer with the use of assistive devices. Petitioner testified that she requires reminders for her medications but she is able to take the medications independently. PCW time is allowed only when the PCW must physically assist the Petitioner with taking medications. The Petitioner testified that she primarily requires assistance with housekeeping, cleaning, laundry and meal preparation. Time is allowed for these services as “services incidental to tasks.”

The evidence establishes that the agency properly approved 9.3 hours/week of PCW services based on Petitioner’s needs. With regard to Petitioner’s need for assistance with housekeeping, cleaning, laundry and meal preparation, the Petitioner can contact the Milwaukee County Aging and Disability Resource Center at 414-289-6874 to inquire about the availability of supportive home care services to assist with housekeeping and meal services for meal preparation.

CONCLUSIONS OF LAW

The agency properly modified the Petitioner’s PA request for PCW services to allow 9.3 hours/week of 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, **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 17th day of August, 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 August 17, 2016.

Division of Health Care Access and Accountability