



STATE OF WISCONSIN  
Division of Hearings and Appeals

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION ON REHEARING

HMO/145731

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**PRELIMINARY RECITALS**

Pursuant to a petition filed December 3, 2012, under Wis. Stat. § 49.45(5)(a), and Wis. Admin. Code § HA 3.03, to review a decision by the Division of Health Care Access and Accountability (DHCAA or Division) or its agent in regard to Medical Assistance (MA), a hearing was scheduled for January 16, 2013. The petitioner did not appear, and the matter was dismissed. The petitioner then timely requested a rehearing, which was granted. The hearing was then held on March 19, 2013, by telephone.

The issue for determination is whether the petitioner's MA HMO correctly denied her prior authorization request for personal care worker (PCW) hours.

There appeared at that time the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

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

By: Lucy Miller, Nurse Consultant  
MA Managed Care Program  
Division of Health Care Access And Accountability  
Madison, WI

**ADMINISTRATIVE LAW JUDGE:**

Nancy J. Gagnon  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is a resident of Milwaukee County. She is certified for MA.

2. On November 12, 2012, a prior authorization request was submitted on the petitioner's behalf for PCW services, at the level of three hours daily, for the November 25, 2012 through March 27, 2013, period. The petitioner's MA HMO issued written notice of denial on November 20, 2012. This denial was in turn reviewed by the MA program's Office of the Inspector General, and the MA program declared that it agreed with the denial of the request.
3. The HMO's basis for denial was that the petitioner did not require any physical assistance with self-care or mobility tasks at the time of the request. It is also noted that the named physician did not sign the PCW prescription/certification.
4. The petitioner, age 45, resides in the community with her adult brother and her children, ages 3 and 8. She has diagnoses of generalized osteoarthritis, degenerative disc disease, asthma, anxiety, hypertension, and insomnia. She has a healed bunionectomy to the right foot, which continues to cause discomfort when walking. This patient is also bothered by lower back pain and sporadic numbness in her left arm (she is right-handed). The petitioner was assessed by a person from Deaconess Home Health on October 30, 2012. That assessor concluded that the petitioner required physical assistance with bathing and lower body dressing, constant supervision with upper body dressing, grooming, mobility and transfers, and intermittent supervision with toileting and medications. She is independent with eating.
5. The petitioner was again assessed during a home visit by two HMO nurses on November 19, 2012. The HMO nurses observed that the petitioner was walking with a steady, even gait, without the use of a cane or other assistive device. They also observed her bending, reaching, and transferring on and off of a chair without difficulty. Their conclusion was that the petitioner was able to feed, dress, groom, toilet and bathe herself (a grab bar for the bathtub was recommended) During the assessment, she was asked what she needed PCW services for; her response was that she needed help with washing, cleaning, laundry, and paying bills.

### DISCUSSION

Personal care worker service (PCW), as defined at Wis. Admin. Code §DHS 107.112(1), is an MA-covered service, subject to prior authorization after the first 250 hours per calendar year. Wis. Admin. Code §DHS 107.112(2) (May 2009). In determining whether to approve such a service request, the Division employs the generic prior authorization criteria found at §DHS 107.02(3)(e). Those criteria include the requirements that a service be a medical necessity, appropriate, and an effective use of available services. *Id.* The Division argues that the authorization criteria have not been satisfied for the reason given in Finding #3 above.

The Department asserts that, although the petitioner may need help with laundry, housekeeping, and bill payment, these are not PCW services. The petitioner contends that she needs all of the requested care time.

The state code does restrict MA-covered PCW tasks as follows:

(b) Covered personal care services are:

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(2)(b).

The petitioner asserts that she requires three hours daily for unspecified amounts of time to be helped with all of the PCW tasks above except #6, #7, and #9. Testimony as to these needs was proffered by the petitioner and her caretaker brother. It is difficult to imagine that the petitioner can adequately care for her 3-year-old, if she is as physically limited as she describes herself. Further, the petitioner's testimony does not match up with the observations made by the two HMO nurses on November 19, 2012. The nurses have nothing to gain here. Thus, I will uphold the service denial.

This decision does not prevent the petitioner from filing a new prior authorization request in the future if her condition should change (for example, if she has another surgery).

#### **CONCLUSIONS OF LAW**

1. That the MA HMO correctly denied the petitioner's request for three hours of daily PCW time, for the November 25, 2012 through March 27, 2013, period.

**THEREFORE, it is**

**ORDERED**

That the petition is dismissed.

#### **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that

Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Madison,  
Wisconsin, this 2nd day of April, 2013

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\sNancy J. Gagnon  
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 April 2, 2013.

Division of Health Care Access And Accountability