



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

In the Matter of

[REDACTED]
[REDACTED]
c/o [REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/149163

PRELIMINARY RECITALS

Pursuant to a petition filed May 04, 2013, 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, a hearing was held on June 19, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the Department erred in its modified approval of PA request # [REDACTED] for PCW services.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
c/o [REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703
By: Cindy Zander, RN, BSN (in writing)
Division of Health Care Access and Accountability
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner has a diagnosis of impulse control disorder, psychosis and speech disturbance.

3. Petitioner receives supportive home care hours through the IRIS program.
4. A PA request was submitted by [REDACTED] [REDACTED] on 3/4/13 seeking approval for 42 hours per week of PCW services.
5. [REDACTED] [REDACTED] submitted a personal care screening tool with a completion date of 2/28/13 indicating a need for 29 hours per week of PCW services.
6. The Department modified the PA and approved 29 hours of PCW services.
7. Petitioner appealed.

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 DHCAA approved 29 hours of PCW services each week for the petitioner. To reach this figure the DHCAA used 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 DHCAA’s reviewer can then adjust to account for variables missing from the screening tool’s calculations.

The reason that the tool is used is evident in a case such as this one. Petitioner’s representatives did not provide specific times necessary for providing the PCW services, but instead testified that more time was needed than the maximums because of petitioner’s unique circumstances and needs. Nothing was quantified. Without a better way to quantify the time for services, however, I find it difficult to add more time.

The petitioner’s representatives at hearing were his grandmother and his sister. They are also care workers for petitioner. The problem with family members being the personal care workers is that it is that they may take more time to do care tasks due to inexperience or carelessness, and thus the Department has set maximum times for a typical care worker.

At hearing, the petitioner's representatives described very challenging behaviors by petitioner. These behaviors are the basis for the request for more hours than the 29 that were reflected on the PCST. [REDACTED], the PCST accounts for behaviors on page 4 of the PCST (see ex. #2). On the that page of the PCST completed by [REDACTED] [REDACTED] the tool asks "list the behavior(s) and describe how the behavior(s) interferes and makes the ADL and delegated nursing acts more time consuming for the PCW to complete." The response from the person completing the tool was: "**Consumer gets agitated, impulsive, quick to lash out, destructive episodes.**" That is all. The response fails to "describe how the behavior(s) interferes and makes the ADL and delegated nursing acts more time consuming" as the question asks. If the provider is seeking more time to be allocated as part of the PCST calculation due to behaviors, provider could easily have attempted to explain the reason for the additional time sought. But the provider elected not to fully answer this question in a way that would paint a picture for the Department of the types of challenges faced by the care providers. The provider offered some additional explanation on the addendum at question 11 in order to justify its request for 13 hours per week above and beyond the number of hours supported by the PCST. But, this paragraph only quantifies one task, bathing, as taking one hour. The paragraph describes some behaviors. But, these3 behaviors should have been captured by the PCST as a result of a thorough description.

At this point I cannot conclude that the amount authorized is insufficient because petitioner's caregivers have not quantified a need for more time.

CONCLUSIONS OF LAW

The Department did not err in its modification of the PA for PCW hours.

THEREFORE, it is

ORDERED

That this matter is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found 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 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 18th day of July, 2013

\sJohn P. Tedesco
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 18, 2013.

Division of Health Care Access And Accountability