



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[Redacted]
[Redacted]
c/o [Redacted]
[Redacted]
[Redacted]

DECISION

MPA/149248

PRELIMINARY RECITALS

Pursuant to a petition filed May 08, 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 ["DCHAA"] in regard to Medical Assistance ["MA"], a Hearing was held via telephone on June 11, 2013.

The issue for determination is whether DCHAA was correct to modify P.A. # [Redacted] which requested Prior Authorization ["PA"] for 42 hours (168 units) per week of Personal Care Worker ["PCW"] services. DCHAA modified the PA request by granting 36 hours (144 units) per week of PCW services.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

[Redacted] (not present at June 11, 2013
Hearing)
c/o [Redacted]
[Redacted]
[Redacted]

Represented by:

[Redacted], petitioner's son and PCW
[Redacted]
[Redacted]

Respondent:

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

ADMINISTRATIVE LAW JUDGE:
 Sean P. Maloney
 Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (65 years old) is a resident of ██████ County.
2. Petitioner has been diagnosed with chronic pain, monoplegia lower limb (nondominant), diabetes with neuropathy, and presenile dementia; she has bowel and bladder incontinence, paralysis, endurance limitations, and ambulation limitations (she uses walker and shower chair).
3. Petitioner's provider, ██████ ██████ of ██████, Wisconsin, filed P.A. # ██████ dated April 2, 2013 with DCHAA requesting 42 hours (168 units) per week of PCW services with a start date of June 1, 2013 for a duration of 53 weeks at a total cost of \$50,641.50.
4. DCHAA modified P.A. # ██████ by granting 36 hours (144 units) per week of PCW services; DCHAA sent a letter to petitioner dated May 1, 2013 and entitled *BadgerCare Plus Notice of Appeal Rights* informing petitioner of the modification.
5. Petitioner lives alone and, in addition to PCW services, receives supportive home care services through the IRIS ("Include, Respect, I Self-Direct") program.
6. Petitioner's PCW service needs were assessed by a Registered Nurse ["RN"] on March 4, 2013 when a *Personal Care Screening Tool* ["PCST"] was completed; the PCST states that petitioner needs total assistance for the following tasks: bathing; dress lower body; grooming; the PCST states that petitioner requires partial physical assistance with the following: dress upper body; the PCST states that petitioner feeds herself but requires intermittent supervision or cueing; the PCST states that petitioner requires physical help with the following: mobility; toileting (incontinence care); transferring; medication; the PCST calls for 26.5 hours (106 units) per week of PCW services.

DISCUSSION

By law, MA pays only for medically necessary and appropriate health care services when provided to currently eligible MA recipients. Wis. Admin. Code § DHS 107.01(1) (May 2009); See also, Wis. Stat. §§ 49.46(2) & 49.47(6)(a) (2011-12). In the case of PCW services, MA pays only for 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) (May 2009). Further, some medically oriented tasks may be covered as PCW services if the PCW has received special training in performing the task. Wis. Admin. Code §§ DHS 107.112(2)(b) & 107.11(2)(b)1. (May 2009).

In addition to the medically oriented tasks allowed for PCW's that have received special training, the only PCW services covered are 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(1)(b) & (4)(f) (May 2009).

PCW services must be performed according to a written plan of care developed by an RN. The plan must be based on the RN's visit to the recipient's home and must be reviewed by the RN at least every 60 days via a home visit. Wis. Admin. Code §§ DHS 107.112(3)(b) & (c) (May 2009). DCHAA based its allotment of PCW hours on the March 4, 2013 PCST and a standard *Personal Care Activity Time Allocation Table*. Use of the PCST is required. See, *Wisconsin Medicaid and BadgerCare Update* August 2006 No. 2006-71; and, *Wisconsin Medicaid and BadgerCare Update* January 2007 No. 2007-04. There is no doubt that petitioner requires extensive PCW services and can be difficult to care for. However, the evidence in the record of this matter is that DCHAA was correct to approve 36 hours per week of PCW instead of the 42 hours per week that was requested. [REDACTED], the PCST calls for only 26.5 hours per week of PCW services. However, DCHAA approved an additional 9.5 hours per week (for a total of 36 hours per week). Second, the *Personal Care Activity Time Allocation Table* supports the 36 hours per week approved by DCHAA. Third, it is noted that general supervision is not a covered PCW service. See, Wis. Admin. Code §§ DHS 107.112(1)(b) & (4)(f) (May 2009). Finally, fourth, in addition to the PCW hours approved by DCHAA petitioner receives supportive home care services through the IRIS program.

At the June 11, 2013 Hearing there was testimony that petitioner needs all the help she can get. However, based on the evidence in the record of this matter, as outlined above, it must be concluded that the 36 hours of PCW services per week approved by DCHAA is sufficient.

CONCLUSIONS OF LAW

For the reasons explained above, DCHAA was correct to modify P.A. # [REDACTED] by granting 36 hours (144 units) per week of PCW services.

NOW, THEREFORE, it is

ORDERED

That the petition for review herein be and the same is hereby 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 3rd day of July, 2013

\sSean P. Maloney
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Wayne J. Wiedenhoef, Acting Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on July 3, 2013.

Division of Health Care Access And Accountability