



STATE OF WISCONSIN  
Division of Hearings and Appeals

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In the Matter of

██████ ██████  
██████████████████  
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DECISION

MPA/149602

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**PRELIMINARY RECITALS**

Pursuant to a petition filed May 25, 2013, under Wis. Stat., §49.45(5), to review a decision by the Division of Health Care Access and Accountability (DHCAA) to modify a Medical Assistance (MA) prior authorization request for personal care worker (PCW) services, a hearing was held on June 12, 2013, by telephone.

The issue for determination is whether the agency correctly determined petitioner's PCW hours based upon the updated assessment.

**PARTIES IN INTEREST:**

Petitioner:

██████ ██████  
██████████████████  
██

Respondent:

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

By: Written submission of Sharon Bailey, Nurse Consultant

**ADMINISTRATIVE LAW JUDGE:**

Brian C. Schneider  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is a 59-year-old resident of Milwaukee County who receives MA.
2. Petitioner's primary diagnosis is diabetic neuropathy. She has muscle weakness, chronic pain especially in her left shoulder, and is subject to falls. She ambulates with a walker. She resides by herself.
3. On February 22, 2013 Independence First requested authorization for 28 hours weekly PCW services, PA no. ██████████. The request was for two hours each morning and two hours each evening. By a letter dated April 29, 2013, the DHCAA granted 12.5 hours per week.

4. Recent physical therapy notes say that petitioner is able to dress herself independently and can make light meals. Goals included washing her hair independently, reaching into overhead cupboards, and carrying laundry and grocery bags. The provider did not submit discharge notes so it is unknown whether those goals were reached. A March, 2013 physician's note says that petitioner does not show malaise, fatigue, back, neck, or joint pain, or weakness, and she has normal range of motion.
5. Petitioner requires assistance with bathing and partial assistance with grooming. She also requires assistance with shopping and laundry. The DHCAA approved PCW hours for twice daily bathing, dressing, toileting, and range of motion, along with incidental services such as shopping and laundry.

### 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 has developed a 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. In this case the tool as prepared by the provider showed a need for 18.75 hours per week (not 28 hours as requested). The DHCAA reviewer then reduced the amount based upon petitioner's physical therapy and doctor notes that show her capabilities to be higher than suggested in the screening tool.

Based upon the evidence before me I conclude that the modification was appropriate. The medical record shows that petitioner should be capable of doing more tasks on her own. It would be helpful if the physical therapy discharge summary was available, but based upon the update prior to her final therapy course of treatment and her progress up until then petitioner should be able to do most activities of daily living on her own. I thus will affirm the DHCAA decision. Petitioner should note that if 12.5 hours per

week are absolutely insufficient, the provider can always request an amendment with evidence backing the need for more hours.

**CONCLUSIONS OF LAW**

The DHCAA appropriately modified the request for PCW hours based upon petitioner's medical records showing that her abilities to care for herself have improved following a course of physical therapy.

**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 28th day of June, 2013

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\sBrian C. Schneider  
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 June 28, 2013.

Division of Health Care Access And Accountability