



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

██████████
c/o ██████████
██████████
████████████████████

DECISION

MPA/150513

PRELIMINARY RECITALS

Pursuant to a petition filed July 6, 2013, under Wis. Stat., §49.45(5), to review a decision by the Division of Health Care Access and Accountability (DHCAA) to deny Medical Assistance (MA) authorization for Pediatric Community Care (PCC) services, a hearing was held on August 14, 2013, by telephone.

The issue for determination is whether petitioner meets the criteria for PCC services.

PARTIES IN INTEREST:

Petitioner:

██████████
c/o ██████████
██████████
████████████████████

Respondent:

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

By: Written submission of Cindy Zander, Nurse Consultant

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a 7-year-old resident of Milwaukee County who receives MA.
2. Petitioner has received PCC services in the past. On April 15, 2013, Milwaukee Center for Independence requested authorization for 5-6 days per week PCC, PA no. ██████████. After reviewing petitioner's current records the DHCAA determined that petitioner no longer required eight hours per day skilled nursing care.
3. The DHCAA denied the request by a letter dated May 23, 2013.

4. Petitioner has ongoing g-tube feeding. She requires suctioning as needed (which is about every 2-3 hours). Physician orders require a full nursing assessment every shift, providing g-tube feedings, suctioning as needed, and skin checks every visit and as needed.
5. Petitioner's most recent medical note shows no recent problems with breathing, no recent seizures, improvements in retching, emesis, and secretions. The majority of care during PCC recently has been monitoring and assessment. Thus while the administration of the g-tube would be a 20-minute nursing task, the subsequent running of the feeding is a monitoring task, and petitioner has been tolerating her feedings. Petitioner has not required nursing interventions for breathing or seizures recently.

DISCUSSION

PCC services are medical services provided in a day care setting for children with complex medical needs who reside at home and require at least eight hours per day of skilled nursing care, as defined in the Wisconsin Administrative Code, §DHS 107.12. §DHS 107.12(1)(a) provides: "Only a recipient who requires 8 or more hours of skilled nursing care and is authorized to receive these services in the home setting may make use of the approved hours outside of that setting during those hours when normal life activities take him or her outside of that setting."

The issue is the definition of skilled nursing services. Petitioner's mother argues that a nurse is necessary at all times while petitioner is at the day care center. However, it is evident that the primary purpose of the nurse is to monitor petitioner's condition and respond if necessary. The Department has long taken the position that monitoring is not the equivalent of providing skilled services. See, e.g., §DHS 107.12(1)(f), "Medically necessary actual time spent in direct care that requires the skills of a licensed nurse is a covered service."

Furthermore suctioning is a task that can be delegated to a home health aide. Medication administration is typically done by petitioner's parents.

Based upon the records before me I must conclude that the denial of PCC was correct. Petitioner's condition, though historically complex, has improved so that it does not appear that she requires skilled nursing services eight hours per day. This obviously is a good thing for her long term, but the unfortunate result is that she does not meet the criteria for coverage of PCC services.

CONCLUSIONS OF LAW

The DHCAA correctly denied the request for PCC services because petitioner no longer requires eight hours per day skilled nursing services.

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 20th day of August, 2013

\sBrian C. Schneider
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 August 20, 2013.

Division of Health Care Access And Accountability