



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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/150567

PRELIMINARY RECITALS

Pursuant to a petition filed July 09, 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 August 22, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the Department of Health Services approved sufficient hours of personal care worker services.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Kelly Townsend, RN
Division of Health Care Access and Accountability
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Milwaukee County.

- 2. A prior authorization (PA) request seeking personal care services for Petitioner was filed on or about May 23, 2013. The PA sought 111 units per week of personal care services, 14 units per week for travel and 6 day life activity visits for a 53 week period commencing May 27, 2013. The cost was noted to be \$298,785.00.
- 3. The Medicaid program approved 107 units per week as it found that this was the amount service that was ordered and/or prescribed by Petitioner’s physician. This time included 140 minutes per week for mobility issues and 210 minutes per week for transfer assistance.

DISCUSSION

All PAs for personal care services require a physician’s order or prescription. *Wis. Admin. Code, §DHS 107.02(2m)(a)*.

In its letter to the Division of Hearings and Appeals and Petitioner explaining this case, the Department also indicated that the appeal from Petitioner’s son notes Petitioner to be a wandering risk so suggests that the Division of Hearings and Appeals consider that the Department may have allowed too much time for Petitioner; suggesting, in essence, that the Division of Hearings and Appeals decision reduce the time allocated by the Medicaid program for mobility and transfer assistance.

The Medicaid program, based upon information submitted by the provider and the personal care screening tool, concluded that 107 units of PCW services were allowable here. Although an hour less than requested this was the amount ordered by Petitioner’s physician. While the ‘wandering’ information from Petitioner’s son is cause for question it is not the Division of Hearings and Appeals’ role to contact the physician and/or provider for additional information or a new PCST and to then adjust the allocated time. I also note that while ‘wandering’ suggests more questions it does not mean that Petitioner is moving safely.

Finally, though the Division of Hearings and Appeals cannot provide legal advice to the Department I do note that *Wis. Admin. Code §DHS 107.02(3)(i)2* states:

- ...
- 2. Subject to the applicable terms of reimbursement issued by the department, covered services provided consistent with a prior authorization, as approved or modified by the department or its fiscal agent, are reimbursable provided:
 - a. The provider’s approved or modified prior authorization request and supporting information, including all subsequent amendments, renewals and reconsideration requests, is truthful and accurate;
 - b. The provider’s approved or modified prior authorization request and supporting information, including all subsequent amendments, extensions, renewals and reconsideration requests, completely and accurately reveals all facts pertinent to the recipient’s case and to the review process and criteria provided under s. DHS 107.02 (3).
- ...

CONCLUSIONS OF LAW

That the evidence in the record is simply insufficient to establish a clinical basis for the level of services requested by the provider, and in particular, the physician’s prescription does not authorize such an aggregate amount.

THEREFORE, it is ORDERED

That this appeal 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 Milwaukee,
Wisconsin, this 27th day of September, 2013

\sDavid D. Fleming
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 September 27, 2013.

Division of Health Care Access And Accountability