



STATE OF WISCONSIN  
Division of Hearings and Appeals

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

HMO/150791

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**PRELIMINARY RECITALS**

Pursuant to a petition filed July 19, 2013, under Wis. Stat. § 49.45(5)(a), and Wis. Admin. Code § HA 3.03, to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance, a telephone hearing was held on October 22, 2013. Previously scheduled hearings on September 4, 2013, and October 22, 2013, were rescheduled at petitioner's request.

The issue for determination is whether the respondent correctly denied petitioner's prior authorization request for personal care worker services.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

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

By: Dr. Donna Davidoff  
Division of Health Care Access And Accountability  
Madison, WI

**ADMINISTRATIVE LAW JUDGE:**

Peter McCombs  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is 56 year old resident of Milwaukee County.
2. Petitioner requested prior authorization for 3.5 hours of daily personal care worker services from June 29, 2013, to August 30, 2013, which request was denied on June 10, 2013, by petitioner's HMO. Exhibit 2, att. 3.

3. On August 9, 2013, the respondent affirmed the HMO's denial of petitioner's prior authorization request on the grounds that the requested services were not medically necessary. Exhibit 2, att. 4.
4. On August 26, 2013, the respondent reaffirmed the denial following a review of supplemental material provided by the petitioner. Exhibit 4.

### DISCUSSION

Petitioner's HMO is required to provide or arrange for the provision of medically necessary and appropriate medical services for its enrollees as required under Wis. Stats. § 49.46(2), and Wis. Admin. Code § DHS 107(1). Wisconsin Administrative Code § DHS 107.112(1) states that Wisconsin Medicaid covered personal care services are those medically oriented activities that are 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.

To obtain a PA for personal care services, providers are required to submit documents to the MA program that accurately and completely demonstrate the need for the requested personal care services. Providers are to use the Personal Care Screening Tool (PCST) to determine the allocation of PCW time needed. The PCST is a tool that collects information on an individual's ability to accomplish activities of daily living, instrumental activities of daily living, medically oriented tasks delegated by an RN and the member's need for personal care worker assistance with these activities in the home. The PCST must be completed based on a face-to-face evaluation of the member in the member's home. The screener must directly observe the member performing the activity before selecting the member's level of need.

The PCST prepared on May 7, 2013, concluded that petitioner needed partial assistance with bathing, dressing, grooming, eating, mobility in home, toileting, and transferring. Exhibit 2, att. 5. In contrast, the LTC Functional Assessment prepared by petitioner's HMO on June 4, 2013, concluded that petitioner may need assistance getting in/out of tub or shower, and with washing her back or lower extremities; however, petitioner was found to be independent in dressing, grooming, eating, mobility in home (with cane), toileting, and transferring (with cane).

Petitioner's testimony at hearing supported the LTC Functional Assessment more than the PCST. She noted that she is able to accomplish her activities of daily living, but that she endures pain in doing so, and it takes much longer without the assistance of a personal care worker. The petitioner had provided supplemental medical records to the respondent, in support of her contention that her medical issues warranted approval of the PCW services. However, the respondent, after reviewing the supplemental material stated:

... the OIG acknowledges that Ms. [REDACTED] experience pain in her legs and that there are abnormalities as indicated by the x-rays. However, there is nothing in the documentation that objectively indicates how this impacts her functional ability related to performing activities of daily living (such as bathing, dressing, grooming, toileting, and mobility). It appears that she is able to ambulate with a cane, although with some effort. It also appears, with some weight loss her functional abilities could improve. There is also adaptive equipment that can be used to ease performance of personal cares (a bath-shower bench or a bath bench that extends outside of a tub for ease of transfer, reachers, long handled bath brushes, etc.). Providing PCW assistance with personal care cannot replace less expensive alternatives that could be used.

Exhibit 4.

I agree with the respondent. The record in this case simply fails to establish the medical necessity of the requested services. While there is no question that PCW services would assist petitioner in her activities

of daily living, the standard here is one of “necessity.” The petitioner has failed to establish the necessity of the requested PCW services.

Nothing in this Decision should prevent the petitioner from applying for services anew in the future. Petitioner is strongly encouraged to share this decision and the respondent’s correspondence dated August 12, 2013 and August 26, 2013, with her providers prior to submission of any future PCW request.

**CONCLUSIONS OF LAW**

Petition has not established the medical necessity of the request PCW services.

**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 Madison,  
Wisconsin, this 26th day of November, 2013

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\sPeter McCombs  
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 November 26, 2013.

Division of Health Care Access And Accountability