FH
[redacted]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[redacted]
c/o [redacted]
[redacted]
[redacted]

DECISION

MPA/150799

PRELIMINARY RECITALS

Pursuant to a petition filed July 22, 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 September 4, 2013, by telephone.

The issue for determination is whether the DHCAA authorized appropriate PCW hours.

PARTIES IN INTEREST:
Petitioner:

[redacted]
c/o [redacted]
[redacted]
[redacted]

Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703
By: Written submission of Kelly Townsend, Nurse Consultant

ADMINISTRATIVE LAW JUDGE:
Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [redacted]) is a 24-year-old resident of Marathon County who receives MA.
2. Petitioner has cognitive impairment, seizure disorder, right arm weakness, and obesity. He requires assistance with activities of daily living (ADLs), and until the current request he was authorized for 42 hours per week PCW services. His father is his care worker.
3. On June 5, 2013, Universal Home Health Care Inc. requested authorization for 42 hours per week PCW services for a one-year period effective April 29, 2013, PA no. [redacted]. By a letter

dated June 27, 2013, the DHCAA granted 31.5 hours per week (additional "as-needed" time was granted as requested).

4. The DHCAA granted maximum daily time for bathing, dressing, grooming, and toileting. Additionally 1.5 hour per day was given for incidental services and for complications due to behavior and seizure activity. No time was given for eating or for range of motion exercises. No time was entered for eating because petitioner requires only supervision and cueing, and those aspects of eating were included in the additional time for behavior. There are no physician orders for range of motion. Petitioner's father does do exercises with petitioner but that is not part of the medical orders. Those maximums plus the additional services add up to 31.5 hours per week.

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 approved 31.5 hours of PCW services each week for the petitioner. To reach this figure the DHCAA initially used the 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. The DHCAA then adjusted the tool's results based upon Department maximum time allowances and considerations of petitioner's medical records.

The reason that the DHCAA now is looking closely at PCW requests is evident in a case such as this one. Petitioner's father did not provide specific times necessary for providing the PCW services, but instead testified that more time was needed than the maximums because of petitioner's unique circumstances and needs. Nothing was quantified. Without a better way to quantify the time for services, however, I find it difficult to add more time. The problem with family members being the personal care workers is that they may take more time to do care tasks due to inexperience or extra carefulness, and thus the Department has set maximum times for a typical care worker. In addition, while it is true that 42 hours

was authorized in the past, it is likely that this request was the first one reviewed thoroughly by the DHCAA.

Petitioner's father should be aware that if Universal Home Health can show a medical need for more time, it can always request an amendment for additional time with evidence to show the need for the additional time. However, based upon the evidence before me I cannot conclude that the reduction to 31.5 hours per week was wrong.

CONCLUSIONS OF LAW

The DHCAA's modification of the request for PCW hours was appropriate based upon petitioner's medical needs and the Department's policies for PCW approval.

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 12th day of September, 2013

\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 September 12, 2013.

Division of Health Care Access And Accountability