



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[Redacted case name]

DECISION

MPA/151954

PRELIMINARY RECITALS

Pursuant to a petition filed September 06, 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 [“DCHAA”] in regard to Medical Assistance [“MA”], a Hearing was held via telephone on October 16, 2013.

The issue for determination is whether DCHAA was correct to deny Prior Authorization [“PA”] # [Redacted] which requested 35 hours per week of Personal Care Worker [“PCW”] services plus 24 hours per year of PCW services on an as needed [“Pro Re Nata” or “PRN”] basis.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

[Redacted] (not present at October 16, 2013 Hearing)

[Redacted]

Represented by:

[Redacted], petitioner’s wife

[Redacted]

Respondent:

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

By: Sharon Bailey, RN, BSN, Nurse Consultant (Ms. Bailey did not appear at the October 16, 2013 Hearing but submitted a letter dated September 25, 2013 with attachments.)

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

OTHER PERSONS PRESENT:

[Redacted], petitioner’s relative (acted as Hmong/English translator)

ADMINISTRATIVE LAW JUDGE:
Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (50 years old) is a resident of Marathon County.
2. Petitioner has diagnoses of End Stage Renal Disease (he attends dialysis 3 times per week) and Skin Sensation (he has a burning sensation from head to toe); he is legally blind (he can only see shadows) but wears corrective lens; he has diabetes which is under control. Attachments #9 & #10.
3. On August 5, 2013 petitioner's provider, Universal Home Health Care of Sheboygan, Wisconsin, filed PA# [REDACTED] dated July 4, 2013 with DCHAA requesting 35 hours (140 units) per week of Personal Care Worker ["PCW"] services plus 24 hours (96 units) per year of PCW services on an as needed ["Pro Re Nata" or "PRN"] basis all for 53 weeks with a requested start date of July 7, 2013 at a total cost of \$30,214.00. Attachment #1.
4. DCHAA denied PA# [REDACTED]; DCHAA sent a letter to petitioner dated August 21, 2013 and entitled *BadgerCare Plus Notice of Appeal Rights* informing petitioner of the denial.
5. Petitioner's PCW service needs were assessed by a Registered Nurse ["RN"] on July 4, 2013 when a *Personal Care Screening Tool* ["PCST"] was completed; the PCST states that petitioner needs partial physical assistance with the following: bathing; dressing upper and lower body; grooming; feeding. It states that he moves about by himself with constant supervision, that he toilets himself but requires the presence of another person intermittently for supervision or cueing, that he needs physical help of another person for transferring but is able to participate, and that he needs reminders for medication. The PCST concluded that petitioner needs 37 hours (148 units) per week of PCW services and zero (0) hours of PRN PCW services. Attachment #3.
6. Medical records from *Marshfield Clinic -- Wausau Center* concerning a February 28, 2013 examination of petitioner by a Medical Doctor ["MD"] state that petitioner states that "he is perfectly healthy other than the fact that his kidneys are failing." It also states that petitioner "claims that he has not had those burning sensations any more since he started dialysis either." The report states that petitioner "has been pretty complaint in taking his medications. In fact, he seems to know all of his medications quite well today." The report notes that petitioner has no joint stiffness, pain, or swelling, no muscle weakness or cramps, no back pain, no history of arthritis or gout, no gait problems, and appears in no acute distress. Attachment #9.
7. Medical records from *Marshfield Clinic -- Wausau Oral Surgery Center* concerning an April 16, 2013 examination of petitioner by an MD state that petitioner "is a well-developed, well-nourished 49-year-old male in no acute distress."

DISCUSSION

By law, MA pays only for medically necessary and appropriate health care services when provided to currently eligible MA recipients. Wis. Admin. Code § DHS 107.01(1) (May 2009); See also, Wis. Stat. §§ 49.46(2) & 49.47(6)(a) (2011-12). In the case of PCW services, MA pays only for 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) (May 2009).

Further, some medically oriented tasks may be covered as PCW services if the PCW has received special training in performing the task. Wis. Admin. Code §§ DHS 107.112(2)(b) & 107.11(2)(b)1. (May 2009).

In addition to the medically oriented tasks allowed for PCW's that have received special training, the only PCW services covered are 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(1)(b) & (4)(f) (May 2009).

PCW services must be performed according to a written plan of care developed by an RN. The plan must be based on the RN's visit to the recipient's home and must be reviewed by the RN at least every 60 days via a home visit. Wis. Admin. Code §§ DHS 107.112(3)(b) & (c) (May 2009). In this case a standard *Personal Care Screening Tool* ["PCST"] was completed. However, as reflected in the above *Findings of Fact*, the results of the PCST are not consistent with recent medical reports concerning petition. Therefore, DCHAA was correct to deny PA # [REDACTED].

Petitioner may, if he wishes, have his provider file another PA request along with medical documentation that clarifies his medical condition.

CONCLUSIONS OF LAW

For the reasons explained above, DCHAA was correct to deny PA # [REDACTED] which requested 35 hours per week of PCW services plus 24 hours per year of PCW services on an as needed basis.

NOW, 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 19th day of November, 2013

\sSean P. Maloney
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 19, 2013.

Division of Health Care Access And Accountability