



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

██████████ ██████████
██████████ ██████████
██

DECISION

MPA/152014

PRELIMINARY RECITALS

Pursuant to a petition filed September 10, 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 personal care worker (PCW) services, a hearing was held on October 9, 2013, by telephone.

The issue for determination is whether petitioner's records do not show a need for PCW services.

PARTIES IN INTEREST:

Petitioner:

██████████ ██████████
██████████ ██████████
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Respondent:

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

By: Written submission of Sharon Bailey, Nurse Consultant

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a 43-year-old resident of Milwaukee County who receives MA.
2. Petitioner has a history of lumbago and a laminectomy in 2012. Limitations are noted to be endurance, ambulation, and back soreness.
3. On June 4, 2013, Quality Assurance Home Health requested prior authorization for 28 hours per week PCW services, PA no. ██████████. The DHCAA questioned the need for PCW services and asked that petitioner undergo a therapy evaluation, but the provider denied the request for an evaluation. By a letter dated August 15, 2013, the DHCAA denied the prior authorization request.

4. The DHCAA reviewed petitioner most recent medical records. They show that petitioner still has low back pain, but that medication relieves the pain and allows her to do her necessary activities. The doctor noted no weakness in lower extremities and normal reflexes. Petitioner was able to stand on toes and heels. No dizziness, edema, or swelling was evident, and range of motion was normal. No mention of adaptive equipment was made in the medical notes.

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. It is the provider’s responsibility to justify the need for the services. Wis. Admin. Code, §DHS 107.02(3)(d)6.

To calculate PCW hours the DHCAA uses 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 tool as filled out by the provider’s nurse estimated 27.75 hours per week.

The DHCAA questioned the need for services in this case because the medical records seemed to contradict the reports in the screening tool. The screening tool reported pain in petitioner’s feet, legs, and hips. It reported dizziness. It reported that petitioner had swollen hands and feet as well as limited range of motion. Based on those reports it concluded that petitioner needed assistance with activities of daily living.

The problem is that petitioner’s doctor reports read nothing like the screening tool. The doctor finds lower back pain and tenderness but no other limitations. No swelling, dizziness, or range of motion limitation is noted. No paid anywhere other than the lower back is noted.

As noted, it is the provider’s responsibility to justify the need for the services. The records show what appears to be an exaggeration of petitioner’s difficulties by the provider, and the fact that the provider was

hesitant for petitioner to submit to a therapy evaluation makes the provider's submission more suspicious. Petitioner testified that she has the problems described by the provider and it is her own doctor whose reports are misleading. That said, I cannot ignore the doctor's reports; if they are wrong then petitioner and the provider can always request the services again with new, more accurate reports of petitioner's limitations. At this point, however, I must conclude that the DHCAA denial was correct because petitioner's doctor's reports show no indication that petitioner would need assistance with activities of daily living.

CONCLUSIONS OF LAW

The DHCAA correctly denied a request for PCW services because petitioner's medical reports show no impairments or limitations that would necessitate the need for PCW assistance.

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 15th day of October, 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 October 15, 2013.

Division of Health Care Access And Accountability