



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

In the Matter of

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

DECISION

MPA/152469

PRELIMINARY RECITALS

Pursuant to a petition filed September 29, 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 telephone hearing was held on October 29, 2013.

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]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

Written Appearance by: Sharon Bailey, RN BSN
Division of Health Care Access and Accountability
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Milwaukee County.
2. Petitioner has diagnoses of lumbral-sacral degeneration and lumbar-sacral neuritis. Exhibit 3.

3. Petitioner suffers from some forgetfulness and has a history of mini-strokes, as well as rotator cuff surgeries on both shoulders and a total knee replacement.
4. On or about May 28, 2013 petitioner's provider requested 26.75 hours of personal care worker (PCW) services per week. Exhibit 2.
5. On or about September 3, 2013, respondent denied petitioner's PA request. Exhibit 2.

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). PCW services must be in the person's home with two exceptions, those being to purchase food and to accompany the recipient to seek diagnosis and treatment. See subsections 11 and 13 above.

The DHCAA denied the request primarily because the medical documentation did not substantiate the May, 2013, Personal Care Screening Tool (PCST) findings. The consultant noted that although the PCST evaluation found that petitioner needs partial assistance with bathing, dressing, grooming, mobility, toileting, and transferring, medical records pertaining to therapy and/or doctor visits in January, February, April, June and July of 2013, report the petitioner's range of motion is functional, sensation is intact, muscle strength is good, and she denies problems with balance. See, Exhibit 3. In contrast, the petitioner's daughter submitted a letter dated September 25, 2013, wherein she noted petitioner's use of a walker, her forgetfulness, and limited mobility. Exhibit 1.

Respondent's Nurse Consultant in her summary noted a number of questions raised by the request, and they are valid ones. Most telling were the differences in petitioner's abilities as set out in PCST versus the recent medical records; the information provided is largely conflicting. Petitioner's daughter testified very competently on behalf of the petitioner. Unfortunately, I cannot corroborate her testimony with the medical information provided. Given that it is the provider's duty to justify the need for the services requested in the PA request, I must agree that the denial was appropriate given the significant discrepancies in the record before me.

Nothing in this Decision shall serve to preclude the petitioner from submitting a new prior authorization for personal care worker services. Petitioner should be aware that this Decision will not be provided to petitioner's provider, and petitioner is strongly encouraged to share a copy of this Decision with Advocate

Home Health Care so that it may address the issues raised by the respondent in any new prior authorization request.

CONCLUSIONS OF LAW

Petitioner has failed to establish the medical necessity of personal care worker services.

THEREFORE, it is

ORDERED

That the 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, Room 651, 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 17th day of December, 2013

\s\sPeter McCombs
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
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The preceding decision was sent to the following parties on December 17, 2013.

Ozaukee County Department of Social Services
Child Care Benefits



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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