



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

In the Matter of

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

DECISION

MPA/153107

PRELIMINARY RECITALS

Pursuant to a petition filed October 28, 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 December 04, 2013.

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

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

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

Respondent:

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

By: Robert Derendinger, RN
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 lumbago and osteoarthritis.

3. On September 23, 2013, Grace Personal Care Services requested authorization for 21 hours per week of PCW services for a one-year period effective October 6, 2013, pursuant to prior authorization (PA) no. [REDACTED]. By a letter dated October 14, 2013, the DHCAA denied the PA.

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 (PCW) 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 denied the PA requesting PCW services each week for the petitioner. The PA request was supported by a Personal Care Screening Tool (PCST), a computer program designed 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 PCST determined that petitioner required assistance with all activities of daily living, needed assistance with services incidental to activities of daily living, and required pro re nata (as needed) PCW service time for short duration episodes of acute need.

Subsequent to the petitioner’s provider’s completion of the PCST, the DHCAA conducted a home visit and found that:

- Petitioner was observed ambulating between the kitchen and living room, and reported using a cane for stability.
- Petitioner reported pain in her right knee that can be a 6-8 on a 0-10 pain scale.
- Petitioner was observed to have a slight limp.
- Petitioner reported pain in her back after over-doing activities.
- Petitioner noted that she can independently apply wraps to her knees.
- Petitioner was noted to have full range of motion, and was further noted to be highly independent and active.

- Petitioner demonstrated her ability to raise her arms above her head, twist at the back, raise her knees up, and touch her knees and toes while sitting. Petitioner reported that she is able to dress and groom herself independently.

The contrasting findings do not lend themselves to an easy determination of the status of the petitioner's need. Testimony provided by the petitioner did not necessarily support the level of care proposed by the PA. Petitioner testified that she has good days and bad days; she stated that often can't use her left hand. She commented that she couldn't walk "straight" due to pain behind her knee. She noted that she needs assistance getting out of the tub, but also said that she does not have any braces or handles in the tub. She said that she needs help applying her bandages on her knees because she sometimes puts them on wrong. Nothing was quantified. Without a better way to quantify the time for services, however, I find it difficult to determine that the PCST properly evaluated petitioner's need for PCW services.

Petitioner should be aware that if Grace Personal Care Services can show a medical need for PCW services, it can always request a new PA with evidence to show the need for the PCW time. However, based upon the evidence before me, I cannot conclude that the respondent's denial of PCW services was wrong.

CONCLUSIONS OF LAW

The DHCAA's denial 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, 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 24th day of January, 2014.

\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 January 24, 2014.

Division of Health Care Access and Accountability