



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/154921

PRELIMINARY RECITALS

Pursuant to a petition filed January 17, 2014, 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 March 18, 2014, by telephone.

The issue for determination is whether the provider showed a need for PCW services.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Written submission of Sharon Beck, RN

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a 54-year-old resident of Rock County who receives MA.
2. Petitioner is morbidly obese and is diagnosed with joint pain and swelling. She has back pain. She resides with her husband, who has medical limitations and has a supportive home care worker for cleaning and other incidental activities.
3. On October 21, 2013, [REDACTED] [REDACTED] requested prior authorization for 6.75 hours per week PCW services for petitioner for bathing, dressing, and grooming three days per week. By a letter dated December 11, 2013, the DHCAA denied the request.

4. The provider lists petitioner's impairments as endurance, ambulation, and dyspnea with minimal exertion. She has equipment to help her with ambulation (a cane and a scooter), bathing, and toileting. She is able to transfer without assistance.
5. A long term care functional screen was done for petitioner in January, 2013. The screener noted that petitioner was independent in activities of daily living, and that there were discrepancies in what petitioner reported being able to do and what she actually could do. See Office of the Inspector General case summary dated February 26, 2014, page 4.
6. Petitioner had an October, 2013 medical visit for knee pain. The doctor noted range of motion to be within functional limits and strength to be normal. He did not note shortness of breath.

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.

Based on the record before me I affirm the DHCAA denial. Medical records show that petitioner is capable of performing her activities of daily living on her own. She has equipment to assist her with bathing. It makes little sense that petitioner would need assistance with dressing and grooming just three days per week while she apparently can handle those tasks the other four days. The medical record simply does not match petitioner's description of her needs. I note that this is not a lifetime denial; of petitioner's condition worsens a new request can be filed.

CONCLUSIONS OF LAW

The DHCAA correctly denied a request for PCW services because medical records show that petitioner is capable of completing the activities of daily living for which the assistance is requested.

THEREFORE, it is

ORDERED

That the petition for review herein be and the same is hereby dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or 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 filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 26th day of March, 2014

\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 March 26, 2014.

Division of Health Care Access and Accountability