



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

HMO/155654

PRELIMINARY RECITALS

Pursuant to a petition filed February 21, 2014, under Wis. Stat. § 49.45(5)(a), and Wis. Admin. Code § HA 3.03, to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance, a hearing was held on June 03, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly determined the Petitioner's PCW services at 1 hour/day.

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: Liz Bartlett
iCare
1555 N. Rivercenter Drive
Suite 206
Milwaukee, WI 53212

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [redacted]) is a resident of Milwaukee County.

2. Petitioner's diagnoses include general muscle weakness, osteoarthritis and hypertension. She had a left knee replacement in February, 2013. She had a right knee replacement in March, 2014. Petitioner is alert and oriented. She is able to ambulate with a cane.
3. On December 11, 2013, an assessment of the Petitioner was conducted by Atlas Healthcare using the Personal Care Screening Tool (PCST). The assessment concluded the Petitioner required the following assistance:
 - Bathing – Level D – needs assistance getting in/out of tub due to L knee replacement; needs assistance with difficult to reach areas, 7 days/week, 30 minutes/day.
 - Dressing – upper and lower – Level D – needs assistance to dress upper body due to pain in shoulders related to diagnosis of osteoarthritis and back; needs assistance to dress lower body due to difficulty bending related to osteoarthritis pain in knees and back, 2x/day, 7 days/week, 40 minutes/day.
 - TED hose – needs assistance with application/removal, 7 days/week
 - Grooming – Level D – needs assistance with set-up but able to groom self; needs assistance with trimming nails due to weakness related to osteoarthritis, 10 minutes/day, 7 days/week.
 - Eating – Level C – needs assistance with set-up of meals due to pain in shoulders, back and knees, 15 minutes x 3x/day, 7 days/week.
 - Mobility – Level B – able to move self but requires intermittent supervision or cueing, 7 days/week.
 - Toileting – Level C – needs assistance with toileting to ensure completion of task due to pain in knees, shoulders and back, 10 minutes x 3x/day, 7 days/week.
 - Transferring – Level C – needs supervision and assistance to ensure safety due to osteoarthritis, knee replacement and back pain, 30 minutes/day, 7 days/week.
 - Medication Assistance – Level B – needs reminders, 2x/day, 7 days/week.
4. On January 17, 2014, a request was submitted from Atlas on behalf of the Petitioner for PCW services of 3.5 hours/day based on the December, 2013 PCST.
5. On January 31, 2014, the agency conducted a second assessment of the Petitioner using the PCST. This assessment concluded the Petitioner required the following assistance:
 - Bathing – Level C – demonstrated ability to get in/out of tub using walker to balance herself; noted some unsteadiness while exiting as there is nothing to grab; needs to use bath chair for safety while in shower; has handheld shower, bath bench; needs grab bars.
 - Dressing – upper – Level A – demonstrated ability to raise arms overhead to don clothing.
 - Dressing – lower – Level C – independent with donning pants and undergarments but unable to don socks or shoes; recommend sock aide.
 - TED hose – assistance needed 2x/week for assistance with donning hose.
 - Grooming – Level A – demonstrated ability to independents set up and complete tasks.
 - Eating – Level A – demonstrated ability to feed herself hand to mouth as well as grasp.
 - Mobility – Level A – demonstrated ambulation with a cane and uses walls and furniture for support when pain is increased; has a cane to use for increased pain; pain low at assessment and gait steady with cane moving room to room. Has pain on bad days about 3x/week.

Toileting – Level A – demonstrates independent with sit to stand from toilet, wears a pad for slight incontinence; independence for cleansing and changing pad; needs grab bars for safety for on/off toilet; has a raised toilet seat.

Transfers – Level A – demonstrated sit to stand from chair, sofa and bed as well as sit to supine in bed.

Medication Assistance – Level B – needs reminders because she will forget, able to take pain meds on her own; would benefit from a medication box.

Incidental Services – laundry 3x/week; independent with linens; light cleaning 7x/week, grocery 1x/week, food prep 3x/week.

It is noted that the Petitioner has increased pain about 3x/week impacting her function.

The assessment concluded the Petitioner requires 1 hour/day of PCW services: 30 minutes/day, 7 days/week for bathing; 10 minutes/day for dressing lower body; 10 minutes/day for assistance with TED hose; and 12 minutes/day for incidental services.

4. On February 6, 2014, the agency notified the Petitioner that the agency approved 1 hour/day of PCW services effective February 24, 2014 based on the latest assessment.
5. On February 21, 2014, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

i-Care is required to provide or arrange for the provision of medically necessary and appropriate medical services for its enrollees as required under Wis. Stats. § 49.46(2), and Wis. Admin. Code § DHS 107(1). Wisconsin Administrative Code § DHS 107.112(1) states that Wisconsin Medicaid covered personal care services are those medically oriented activities that are 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.

To obtain a PA for personal care services, providers are required to submit documents to the MA program that accurately and completely demonstrate the need for the requested personal care services. Providers are to use the Personal Care Screening Tool (PCST) to determine the allocation of PCW time needed. The PCST is a tool that collects information on an individual's ability to accomplish activities of daily living, instrumental activities of daily living, medically oriented tasks delegated by an RN and the member's need for personal care worker assistance with these activities in the home. The PCST must be completed based on a face-to-face evaluation of the member in the member's home. The screener must directly observe the member performing the activity before selecting the member's level of need.

A Personal Care Activity Time Allocation Table is used by providers to assist in prorating time for service-specific activities provided by personal care workers.

At the hearing, the Petitioner testified that she requires assistance with bathing and dressing. This is conceded by the agency and the time appropriated by the agency for bathing and dressing is reasonable. The agency also allotted a reasonable time for application of TED hose. The Petitioner also testified that she is independent with grooming and eating. The Petitioner's primary concern relates to her mobility and transfers. She testified that she can transfer and move about with the use of a cane on good days but has difficulty on bad days. She reported at the time of the assessment in January and at the hearing that she has increased pain approximately 3 – 4x/week. Related to the difficulty with mobility and transfers is difficulty with toileting (on/off the toilet) on those days when she has increased pain.

Based on the evidence, I conclude that the Petitioner's level of assistance for mobility, transfers and toileting should be a Level B based on her intermittent need for supervision. However, the allocation table does not allow for additional time for intermittent supervision needs. The agency appropriately

determined the services incidental to tasks at 12.5 minutes (25% x 50 minutes of time for activities of daily living). I conclude therefore that the agency has appropriately determined the Petitioner requires 1 hour/day of PCW services.

CONCLUSIONS OF LAW

The agency appropriately determined the Petitioner requires 1 hour/day of PCW services.

THEREFORE, it is

ORDERED

That the Petitioner's 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 Milwaukee,
Wisconsin, this 11th day of July, 2014

\sDebra Bursinger
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 July 11, 2014.

iCare
Division of Health Care Access and Accountability