



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/155979

PRELIMINARY RECITALS

Pursuant to a petition filed March 3, 2014, under Wis. Stat., §49.45(5), to review a decision by the Division of Health Care Access and Accountability (DHCAA) to modify a Medical Assistance (MA) prior authorization request for personal care worker (PCW) services, a hearing was held on April 15, 2014, by telephone.

The issue for determination is whether the DHCAA correctly modified the requested PCW hours based upon the provider's assessment tool.

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 Robert Derenedinger, RN

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a 26-year-old resident of Milwaukee County who receives MA.
2. Petitioner has Down's syndrome, abnormality of gait, urinary incontinence, hearing loss, and Dysphagia. She is limited in hearing, endurance, ambulation, and speech.
3. Petitioner previously was allotted 42 hours per week PCW services, with her mother being the primary caregiver. In January, 2014, her provider Independence First conducted a new assessment. The assessor documented a need for 25.75 hours per week PCW services.

4. On February 3, 2014, Independence First requested 42 hours per week PCW services. By a letter dated February 26, 2014, the DHCAA modified the request to 24.5 hours per week.
5. Petitioner was allotted 30 minutes per day for bathing, 20 minutes for dressing, 30 minutes for grooming, 40 minutes for eating, 30 minutes for toileting along with an additional 15 minutes for incontinence care, and 40 minutes for incidental services. No time was given for range of motion because none was allotted on the assessment.

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.

The DHCAA approved 24.5 hours of PCW services each week for petitioner. To reach this figure the DHCAA used 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.

Petitioner’s mother testified that she actually spends far more than 42 hours per week caring for petitioner. However, the DHCAA used the information provided to it, and the assessment done by petitioner’s provider called for just an hour more per week than was approved. The problem with family members being the personal care workers is that they may take more time to do care tasks due to inexperience or extra carefulness, and thus the Department has set maximum times for a typical care worker.

In this case maximum times were approved for every area listed. Only range of motion and additional time for behaviors were not included. Range of motion was not included as a task in the screening tool. Records show that petitioner is not resistant to care and does not exhibit behavior concerns. See Office of the Inspector General case summary date March 27, 2014, page 5. Petitioner’s mother disagrees and testified that petitioner is resistant to care at times, but again, the DHCAA must utilize the information

provided to it. The lack of extra time for behavior is the primary reason that 24.5 hours, rather than 25.75 hours, was granted.

I conclude that the DHCAA modification was appropriate. As it is, the Independence First assessment called for only 25.75 hours, not 42 as requested, and the additional reduction to 24.5 also is reasonable.

CONCLUSIONS OF LAW

The DHCAA correctly determined that petitioner's weekly PCW services should be set at 24.5 hours.

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 22nd day of April, 2014

\sBrian C. Schneider
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin \DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on April 22, 2014.

Division of Health Care Access and Accountability