



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

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In the Matter of

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

DECISION

MPA/156230

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**PRELIMINARY RECITALS**

Pursuant to a petition filed March 12, 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 May 7, 2014, by telephone.

The issue for determination is whether the DHCAA correctly modified the requested PCW hours.

**PARTIES IN INTEREST:**

Petitioner:

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

Respondent:

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

By: Written submission of Sharon Beck, Nurse Consultant

**ADMINISTRATIVE LAW JUDGE:**

Brian C. Schneider  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County who receives MA.
2. Petitioner is 81 years old with Mononeuritis and chronic pain. She is reported to be incontinent. She is able to transfer and ambulate independently.
3. On January 9, 2014 Independence First requested prior authorization for 34.25 hours per week PCW services, PA no. [REDACTED]. By a letter dated March 9, 2014, the DHCAA granted 21.75 hours per week.

4. The DHCAA granted PCW time as requested for bathing, dressing, grooming, and toileting, and then added in 327 minutes for services incidental to those tasks for a total of 1,307 minutes per week. It denied 140 minutes per week for mobility and 210 minutes per week for transfers because petitioner's doctor reported that she is able to transfer and ambulate on her own. The DHCAA denied 15 minutes per day for meal set up, and 15 minutes per day for medication assistance. As no time was requested for range of motion none was approved.

### 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.

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.

In this case the DHCAA accepted to requested times for bathing, dressing, grooming, and toileting. It denied the 15 minutes per day for meal set up because the set up tasks discussed in the assessment are specifically included as incidental tasks. Extra meal set up time is granted only for setting up adaptive utensils. See 4/30/14 OIG case summary, page 11, last paragraph. There also is mention of a clothing protector, but the DHCAA notes that petitioner is able to brush her teeth, wash her face and hands, and eat independently, and thus it is likely that she can handle clothes protection on her own.

Medication administration was not approved because Independence First does not, by its own policy, provide that task. Instead it seeks additional time for petitioner's “medication condition,” but as pointed out in the OIG summary at page 13, time for that reason is allowed only if the person as a rare medical condition with specific instructions and equipment needs. Petitioner does not have such a rare condition.

The biggest difference in the request and the approval is in mobility and transfers. The DHCAA denied time for those tasks because petitioner showed her own doctor that she could transfer and ambulate on her own. Furthermore, petitioner spends substantial time home alone, and there is no indication that she is chair- or bed-bound during that time. There is not enough evidence to show that petitioner needs assistance with transfers and ambulation, and petitioner's daughter, who appeared for her at the hearing, did not stress a need for assistance in those areas.

Petitioner's daughter mentioned that the caregiver must assist with range of motion, but no time was requested for range of motion in the PA request.

Petitioner's daughter stresses that she must constantly apply lotion to petitioner's lower body after toileting and cleaning to prevent skin breakdown. However, the assessment does not ask for special, additional time for that task, and as noted, there is additional time added to the approval for services incidental to the tasks.

I conclude, therefore, that the time approved by the DHCAA was appropriate. If the provider concludes after a trial time at these lower approved hours that more time is necessary, it can always request an amendment with specific reasons for the need for more time.

### **CONCLUSIONS OF LAW**

The DHCAA appropriately determined petitioner's PCW hours based upon the combination of the screening tool assessment and petitioner's medical records.

**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 13th day of May, 2014

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\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 May 13, 2014.

Division of Health Care Access and Accountability