



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/157013

PRELIMINARY RECITALS

Pursuant to a petition filed April 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 July 9, 2014, by telephone. A hearing set for May 28, 2014 was rescheduled with the petitioner's agreement because the wrong issue had been addressed.

The issue for determination is whether petitioner's medical records supported the denial of 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, Nurse Consultant

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a 66-year-old resident of Brown County who receives MA.
2. On January 30, 2014, [REDACTED] requested prior authorization on petitioner's behalf for 18.5 hours per week PCW services, PA no. [REDACTED]. By a letter dated March 28, 2014, the DHCAA denied the request.
3. Petitioner's diagnoses are diabetes and central nervous system (CNS) disorder that causes tremors. The PA request notes that petitioner needs assistance with bathing, upper body dressing, grooming, medication administration, and meal preparation. It also states that he needs assistance with ambulation three times per week.

4. Petitioner's medical records show no record of tremors that would cause problems with activities of daily living. While diabetes control was noted to be poor in August, 2013, it was improved markedly by December, 2013 and again in March, 2014. There is no record of problems with ambulation. The DHCAA noted that three different PCW screens were done by [REDACTED] with differing results.

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 uses a 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 essentially ignored the screening tool prepared by [REDACTED] because its review of petitioner's medical records, along with the inconsistencies in the three screens done by [REDACTED], made the agency question the need for PCW services. Most importantly, the primary reason given for petitioner's need was that he had difficulty with fine and gross motor tasks due to his tremors, but the medical records barely mentioned tremors except to note that he had them, and neither petitioner nor the doctor noted difficulties caused by tremors.

During the hearing petitioner testified that the tremors are a serious problem. Furthermore he testified that he needs assistance with his insulin shots. The Department's case summary dated June 12, 2014 notes that PCW tasks do not include assistance with insulin shots, and thus cannot be considered in determining whether a PCW is necessary. With regard to the tremors, petitioner now has a new doctor. If that doctor can document that petitioner has tremors that impair his ability to do activities of daily living, a new prior authorization request can be filed with the new medical documentation. The issue before me is whether the DHCAA correctly denied the request based upon the medical information it had. I must conclude that the denial was correct.

CONCLUSIONS OF LAW

The DHCAA correctly denied a request for PCW services for petitioner because medical records in petitioner's recent history did not support a need for PCW assistance.

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 14th day of July, 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 July 14, 2014.

Division of Health Care Access and Accountability