



STATE OF WISCONSIN  
Division of Hearings and Appeals

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MPA/157070

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**PRELIMINARY RECITALS**

Pursuant to a petition filed April 23, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability (DHCAA or Division) in regard to Medical Assistance (MA), a hearing was held on July 9, 2014, by telephone. A hearing set for June 4, 2014, was rescheduled at the petitioner's request.

The issue for determination is whether the Division correctly denied a prior authorization request for personal care worker (PCW) hours for the petitioner.

There appeared at that time the following persons:

**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 Cindy Zander, RN BSN  
Division of Health Care Access and Accountability  
1 West Wilson Street, Room 272  
P.O. Box 309  
Madison, WI 53707-0309

**ADMINISTRATIVE LAW JUDGE:**

Nancy J. Gagnon  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is a resident of Milwaukee County. She is certified for MA.

2. On February 25, 2014, a prior authorization request (#... [REDACTED]) was submitted on the petitioner's behalf for 14.0 hours weekly of PCW services (plus worker travel time), beginning March 1, 2014. On March 24, 2014, the Division issued written notice that it was denying the request by approving PCW time of **zero** hours weekly.
3. The Division's basis for service denial was that the number of requested hours was not medically necessary. In particular, the Division concluded that this level of PCW services was not needed because the PCST did not state that the petitioner needs physical assistance with bathing, dressing, grooming, eating, toileting, transfers or ambulation.
4. The petitioner, age 59, was residing with a non-relative in the community; that person has now moved out. The petitioner has diagnoses of lupus, panic disorder, GERD, overactive bladder, fibromyalgia, and hypertension. She has functional limitations in the area of endurance.  
  
A state Personal Care Screening Tool (PCST) review was performed by a nurse for the petitioner on December 3, 2013. The PCST program concluded that the petitioner requires **0.5** hours of PCW care weekly. The PCST results declared that the petitioner is independent in bathing, dressing, grooming, toileting, transfers, and ambulation. She feeds herself. The petitioner takes oral medications.
5. A screener from the county ADRC evaluated the petitioner on December 23, 2013. That screener concluded that the petitioner did not need physical assistance with bathing, dressing, grooming, eating, mobility, transfers or toileting.
6. The petitioner is independent in bathing, dressing, grooming, eating, toileting, transfers, and ambulation. Her endurance level can vary day to day, due to her lupus. The petitioner also requires the service of others to purchase her food, do laundry, and perform heavier residential cleaning tasks.

### DISCUSSION

Personal care worker service (PCW), as defined at Wis. Admin. Code §DHS 107.112(1), is an MA-covered service, subject to prior authorization after the first 250 hours per calendar year. Wis. Admin. Code §DHS 107.112(2) (May 2009). In determining whether to approve such a service request, the Division employs the generic prior authorization criteria found at §DHS 107.02(3)(e). Those criteria include the requirements that a service be a medical necessity, appropriate, and an effective use of available services. *Id.* The Division argues that the authorization criteria have not been satisfied for the reason given in Finding #3 above.

The Department asserts that it denied the PCW time because help is not needed to perform purely PCW tasks. The petitioner contends that s/he needs all of the requested care time.

The state code does restrict MA-covered PCW tasks as follows:

(b) Covered personal care services are:

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(2)(b).

The petitioner testified that she has good days and bad days. On the bad days, she cannot bathe. However, it is not medically necessary for an inactive person to bathe daily. She also testified that she sometimes breaks out in hives on her back and the assistance is needed to apply skin lotion to her back (which she cannot reach). This was not sufficiently compelling to authorize PCW time. The other tasks that the petitioner needs help with (*e.g.*, laundry) are the province of a supportive home care worker, rather than a personal care worker. I conclude that the Department's denial was correct at this time. If the petitioner's condition should worsen, a new prior authorization request can be submitted in the future.

### CONCLUSIONS OF LAW

1. The petitioner requires zero PCW hours weekly for the current authorization period.

**THEREFORE, it is**

**ORDERED**

That the petition is 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 15th day of July, 2014

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\sNancy J. Gagnon  
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 15, 2014.

Division of Health Care Access and Accountability