



FH

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

In the Matter of:

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

HMO/157153

PRELIMINARY RECITALS

Pursuant to a petition filed April 23, 2014, under Wis. Stat. § 49.45(5)(a), and Wis. Admin. Code § HA 3.03, to review a decision by the Independent Care Health Plan [*iCare*] in regard to Medical Assistance [*MA*], a Hearing was held via telephone on May 21, 2014.

The issue for determination is was *iCare* correct to approve 1.5 hours per day of Personal Care Worker [*PCW*] services for petitioner instead of the 3.0 hours per day that were requested.

There appeared at that time via telephone 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: Lucy Miller, Nurse Consultant
Division of Health Care Access and Accountability
Department of Health Services
State of Wisconsin
1 West Wilson Street
P.O. Box 309
Madison, Wisconsin
53701-0309

OTHER PERSONS PRESENT:

[REDACTED], *iCare* Vice-President and General Counsel
[REDACTED], Registered Nurse [*RN*], *iCare* Prior Authorization [*PA*]/Utilization Nurse

ADMINISTRATIVE LAW JUDGE:
Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (55 years old) is a resident of Milwaukee County, Wisconsin.
2. Petitioner lives alone in a 1-story home; she has lumbago (back pain), joint pain, and pancreatitis.
3. In February or March 2014 petitioner made a Prior Authorization ["PA"] to iCare for 3.0 hours per day of PCW services.
4. Originally iCare approved 1.25 PCW hours per day; at the time of the May 21, 2014 Hearing in this matter iCare changed this and approved 1.5 PCW hours per day (due to an error having to do with the rounding-up of bathing time).
5. A *Personal Care Screening Tool* ["PCST"] for petitioner was completed on February 17, 2014 by a Registered Nurse ["RN"] following a meeting with petitioner and states the following concerning petitioner's Activities of Daily Living ["ADLs"]: BATHING: partial physical assist of another person; DRESSING: needs partial physical assist of another person to dress upper & lower body; GROOMING: needs partial physical assistance; EATING: feeds self; no PCW assistance needed; MOBILITY IN HOME: moves self about with constant supervision; TOILETING: toilets self but requires presence of another person intermittently for supervision or cueing; TRANSFERRING: transfers self with constant supervision and physical intervention to ensure task completion; MEDICATION ASSISTANCE: independent with medications; the PCST allocated 3.36 hours per day of ADL assistance for petitioner.
6. On April 8, 2014 HealthReach Rehabilitation Services conducted an in-home assessment of petitioner to review her functional capacities and need for assistance from a PCW; the assessment states the following concerning petitioner's ADLs: BATHING: needs partial physical assistance of another person; DRESSING: is able to dress upper herself but requires presence of another person (on "bad days" she requires physical assistance due to back pain); needs partial physical assistance to dress lower body (on "bad days" she requires physical assistance due to back pain); HOSE: needs physical assistance with on/off of support stockings (although there is no doctor's order for this); GROOMING: needs partial physical assistance; EATING: feeds self; no PCW assistance needed; MOBILITY IN HOME: ambulates independently (uses cane outside); TOILETING: independent with all toileting tasks; TRANSFERRING: completes all transfers independently; MEDICATION ASSISTANCE: independent with medications; using the *Personal Care Activity Time Allocation Table* ["PCATAT"] it was determined that petitioner required 1.25 PCW hours per day.
7. A Wisconsin Department of Health Services ["DHS"] Nurse Consultant reviewed petitioner's medical records, the February 17, 2014 PCST, and the April 8, 2014 in-home assessment; the Nurse Consultant determined that petitioner needs 1.50 PCW hours per day.

DISCUSSION

By law, MA pays only for medically necessary and appropriate health care services when provided to currently eligible MA recipients. Wis. Admin. Code § DHS 107.01(1) (February 2014); See also, Wis. Stat. §§ 49.46(2) & 49.47(6)(a) (2011-12). In the case of PCW services, MA pays only for 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) (February 2014). Further, some medically oriented tasks may be covered as PCW services if the PCW has received special training in performing the task. Wis. Admin. Code §§ DHS 107.112(2)(b) & 107.11(2)(b)1. (February 2014). PCW services must be performed according to a written plan of care developed by a Registered Nurse [“RN”]. The plan must be based on the RN's visit to the recipient's home and must be reviewed by the RN at least every 60 days via a home visit. Wis. Admin. Code §§ DHS 107.112(3)(b) & (c) (February 2014).

In addition to the medically oriented tasks allowed for PCW's that have received special training, the only PCW services covered are 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(1)(b) & (4)(f) (February 2014).

In this case a PSCT, a PCATAT, an in-home assessment, and a review by a DHS Nurse Consultant were all completed. Using the PCATAT the in-home assessment concluded that petitioner needs 1.25 hours per day of PCW services. At the time of the Hearing in this matter iCare changed this and approved 1.5 PCW hours per day (due to an error having to do with the rounding-up of bathing time). The DHS Nurse Consultant, after reviewing petitioner's medical records, the PCST, and the in-home assessment concluded that petitioner needs 1.5 hours per day of PCW services. It is not known why the PCST itself allocated 3.36 hours per day of ADL assistance for petitioner. However, it is noted that petitioner's functional needs are consistent between the PCST and the in-home assessment. Further, a review of all the evidence in the record of this matter shows that 1.5 hours per day of PCW services is sufficient to meet petitioner's needs. This amount of time is consistent with petitioner's condition as reflected in the above *Findings of Fact*. Thus, in the absence of additional evidence, 1.5 hours per day of PCW services must be affirmed.

Petitioner testified that she needs more PCW time for bathing and because she cannot bend over. Petitioner may, if she wishes, file another PA request along with additional documentation that clarifies her condition and abilities.

CONCLUSIONS OF LAW

For the reasons explained above, iCare correct to approve 1.5 hours per day of PCW services for petitioner instead of the 3.0 hours per day that were requested.

NOW, 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 16th day of June, 2014

\sSean P. Maloney
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 June 16, 2014.

Division of Health Care Access and Accountability