



STATE OF WISCONSIN  
Division of Hearings and Appeals

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MPA/157164

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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 May 21, 2014, at Milwaukee, Wisconsin.

The issue for determination has been resolved.

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 Kelly Townsend, RN  
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 January 16, 2014, a prior authorization request was submitted on the petitioner's behalf by First Choice Healthcare for personal care worker (PCW) services at the level of 22.0 hours

weekly. The Division eventually approved that request at the 22.0 hours weekly level. The requested service starting date was January 10, 2014.

3. The petitioner, age 54 resides with a family member. She has diagnoses of low back pain, obesity, diabetes without complications, high cholesterol, hypertension, and depressive disorder.
4. A screening evaluation (PCST) of the petitioner was done on November 8, 2013. It revealed that the petitioner requires physical help with bathing, dressing, grooming, transfers, and toileting twice daily. She is independent in eating. She does not have a rare medical condition or behaviors that increase the time needed for care-giving. Based on the PCST, the conclusion was that 22.0 hours of PCW time was needed weekly. At hearing, the petitioner concurred with this description of her assistance needs, and with the authorization of 22.0 PCW hours weekly.

### 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 state code restricts 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).

In this case, the authorization request was for 22.0 hours weekly, which is also the amount of hours called for in the PCST. The Division's letter response for this hearing stated that it agrees with 22.0 hours of PCW time weekly for the petitioner. The petitioner agrees with this amount of service. Thus, nothing remains in dispute.

The petitioner expressed concern that her provider may no longer be able to furnish services. Nonetheless, the petitioner should show this Decision to her provider, so that First Choice is clear on the fact that it can get paid for services going back to January 10, 2014. If First Choice is not able to provide the petitioner with services going forward, the petitioner may wish to contact another provider and ask about a new prior authorization request under the new provider's name. She may wish to show this Decision to the new provider as a reference document.

### CONCLUSIONS OF LAW

1. No issue remains for resolution, as both parties agree that 22.0 hours of PCW weekly time are appropriate and have been authorized.

**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 22nd day of May, 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 May 22, 2014.

Division of Health Care Access and Accountability