



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/157540

PRELIMINARY RECITALS

Pursuant to a petition filed May 07, 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 in regard to Medical Assistance, a telephone hearing was held on June 17, 2014.

The issue for determination is whether the respondent correctly denied petitioner's prior authorization request for personal care worker (PCW) services.

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: Robert Derendinger, RN BSN, Nurse Consultant
Division of Health Care Access and Accountability
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Milwaukee County who receives MA. Petitioner resides with her son and daughter in law.
2. Petitioner has diagnoses of back pain, shoulder pain, hyperlipidemia, muscle spasms, and depression. Petitioner's functional limitations include hearing, endurance, ambulation and pain. See, Exhibit 3. Testimony was provided indicating that petitioner participates in physical therapy.

3. On or about February 27, 2014, petitioner's provider, [REDACTED] LLC, requested authorization for 112 units per week for Personal Care Worker (PCW) services, 96 units per year for personal care services as needed, and 14 units per week for travel time for a one-year period effective March 6, 2014, PA no. [REDACTED] Exhibit 2.
4. The prior authorization was returned to the provider on March 25, 2014, seeking further clinical documentation. This information was provided and reviewed by the respondent. By a letter dated April 24, 2014, the DHCAA denied the prior authorization request. Exhibit 2.

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 respondent contends that the clinical information provided by the petitioner's provider does not establish that PCW services are medically necessary. See, Exhibit 3. The respondent notes that that the petitioner's medical records demonstrate that petitioner's pain is controlled by medication, and that, while hearing loss is confirmed, the record does not reveal why the hearing loss would merit the assistance of a personal care worker. I further note that there is no indication that the petitioner utilizes adaptive or assistive equipment, aside from a cane, which may be more cost-effective than PCW services in addressing petitioner's needs.

The reason that the DHCAA now is looking closely at PCW requests is evident in a case such as this one. Petitioner did not provide specific times necessary for providing the PCW services, but instead testified that the services were necessary because of petitioner's unique circumstances and needs. Nothing was quantified. Without a better way to quantify the time for services, however, I find it difficult to approve the requested PCW time. In addition, while it may be that PCW services were authorized in the past, it is likely that this request was the first one reviewed thoroughly by the DHCAA.

In that same vein, petitioner should be aware that if [REDACTED] LLC can show a medical need for PCW time, it can always request an amendment for additional time with evidence to show the need for the additional time. I would also urge petitioner to contact her county's Aging and Disability Resource Center for additional options regarding her care needs.

CONCLUSIONS OF LAW

The DHCAA's denial of the request for PCW services was appropriate based upon petitioner's medical needs and the Department's policies for PCW approval.

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 8th day of August, 2014

\sPeter McCombs
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 August 8, 2014.

Division of Health Care Access and Accountability