



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/157560

PRELIMINARY RECITALS

Pursuant to a petition filed May 08, 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 18, 2014.

The issue for determination is whether the Division of Health Care Access and Accountability (DHCAA) authorized appropriate PCW hours.

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: Marcie Oakes, 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:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Milwaukee County.
2. Petitioner is a 76-year-old resident of Milwaukee County who receives MA.

3. Petitioner has osteoarthritis and hypertension. Exhibit 5. Testimony was provided indicating that petitioner suffers from depression, difficulty sleeping, and memory deficits, and that stiffness in her fingers makes it difficult for her to take her medications and hold a glass. She requires assistance with activities of daily living (ADLs), and until the current request she was authorized for 84 hours per week PCW services. See, Exhibit 6.
4. On or about April 2, 2014, Independence First requested authorization for 84 units per week for Personal Care Worker (PCW) services and 28 units per week for travel time for a one-year period effective June 1, 2014, PA no. [REDACTED]. By a letter dated April 24, 2014, the DHCAA granted a modified 59 units per week for PCW services and denied the requested 28 units per week for travel time. Exhibit 5.
5. The DHCAA granted weekly time for bathing (210 minutes), dressing (140 minutes), grooming (210 minutes), and toileting (140 minutes). Exhibit 6. Petitioner's total PCW time allotment is 700 minutes per week plus 175 minutes per week for services incidental to tasks, which equals 875 minutes per week. One unit equals 15 minutes of time; therefore the respondent concluded that 59 units per week ($875/15=58.3$) were appropriate. See, Exhibit 6.

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 approved 59 units of PCW services each week for the petitioner. To reach this figure the DHCAA initially used the 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. The DHCAA then adjusted the tool's results based upon Department maximum time allowances and considerations of petitioner's medical records.

The reason that the DHCAA now is looking closely at PCW requests is evident in a case such as this one. Petitioner's representatives did not provide specific times necessary for providing the PCW services, but instead testified that more time was needed than the maximums 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 add more time. In addition, while it may be that 84 units were authorized in the past, it is likely that this request was the first one reviewed thoroughly by the DHCAA.

I also find that the denial of travel time in the PA request was appropriate. The respondent explained that the PCW schedules for petitioner and her husband showed back-to-back assigned times. Exhibit 6. Providers are to schedule PCW visits to maximize travel so that service is provided in a cost-effective manner. See, Wis. Admin. Code, §DHS 101.03(96m). The respondent requested that petitioner's provider submit an amendment with supporting documentation and the reason why the travel time cannot be maximized, as the present request does not establish the medical necessity of two PCW travel time allotments for petitioner and her husband.

In that same vein, petitioner should be aware that if Independence First can show a medical need for more PCW time, it can always request an amendment for additional time with evidence to show the need for the additional time. However, based upon the evidence before me I cannot conclude that the reduction to 59 units per week was wrong.

CONCLUSIONS OF LAW

The DHCAA's modification of the request for PCW hours 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 7th 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 7, 2014.

Division of Health Care Access and Accountability