



STATE OF WISCONSIN  
Division of Hearings and Appeals

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MPA/158238

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**PRELIMINARY RECITALS**

Pursuant to a petition filed June 09, 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 hearing was held on July 17, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly denied the Petitioner's PA request for personal care worker services.

There appeared at that time and place 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

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

**ADMINISTRATIVE LAW JUDGE:**

Debra Bursinger  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is a resident of Milwaukee County.
2. Petitioner is 60 years old. He lives alone. His primary diagnosis is weakness. Other diagnoses include chronic pain, rheumatoid arthritis, alcoholism and GERD. Functional limitations include

endurance, ambulation and range of motion. His activity level is described as “up as tolerated” with a cane.

3. On April 23, 2014, the Petitioner’s provider completed a Personal Care Screening Tool (PCST). It assessed the Petitioner’s needs as follows:

Bathing – Level D, 7 days/week  
 Dressing – Upper and Lower – Level D, 7 days/week  
 Grooming – Level E, 7 days/week  
 Eating – Level A  
 Mobility – Level A  
 Toileting – Level D, 7 days/week, 4x/day  
 Incontinence care – Level E, 7 days/week, 4x/day  
 Transferring – Level A  
 Medication Assistance – Level B

The addendum to the PCST notes that Petitioner needs assistance getting in/out of tub and washing unreachable areas due to generalized weakness and poor endurance related to chronic alcoholism and chronic back pain. Petitioner needs assistance with dressing because of chronic pain related to arthritis. Petitioner needs hands-on assistance with hair care, shaving, nail care. The addendum notes that the Petitioner drinks every day and is often unkempt due to incontinence related to alcoholism.

4. Physician notes from a visit on April 8, 2014 were submitted with the PCST. The notes indicate the Petitioner presented with chronic pain and complaints of back pain. The notes indicate no joint pain, stiffness or swelling, no weakness, tingling or numbness, no dizziness, no memory loss, no gait abnormality.
5. On April 28, 2014, a PA request was submitted by the Petitioner’s provider, Community Home Health Care, Inc. requesting 26.25 hours/week of personal care worker services for the Petitioner.
6. On May 22, 2014, the agency issued a notice to the Petitioner informing him that his request for PCW services was denied.
7. On June 9, 2014, the Petitioner filed an appeal with the Division of Hearings and Appeals.

### **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, or one-fourth when the recipient lives with family. 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.

To determine the numbers of PCW hours, providers are required to use the Personal Care Screening Tool (PCST), a tool meant 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 agency's reviewer can then adjust to account for variables missing from the screening tool's calculations.

In this case, the agency used recent physician's notes, in addition to the PCST, to determine the Petitioner's needs. These visits occurred on April 8, 2014, February 25, 2014, January 31, 2014 and January 3, 2014. The notes document that the Petitioner did not complain of joint pain, joint stiffness, weakness or fatigue, numbness, dizziness or memory loss. The notes document that Petitioner has no gait abnormality. Petitioner was noted to be alert and oriented for the visits and adequately groomed. The primary complaint was back pain for which prescriptions for oxycodone and OxyContin were refilled. Other complaints during the visits consisted of cold symptoms.

The agency asserts that the Petitioner currently uses no assistive devices except a can for mobility. The Petitioner has not attempted to use assistive devices or durable medical equipment available for showering/bathing, dressing and grooming. The agency notes that the PCST instructions indicate that PCW assistance is not medically necessary if the member can perform an activity safely with the use of an assistive device and the PCST assessor should observe the member using available assistive devices in determining the level of assistance needed. The agency notes that not only was there no documentation submitted with the PA request to explain or support the levels of assistance selected but there was no assessment of whether assistive devices could be an alternative to PCW services. The agency also noted that there may be other service options such as community support programs in the area.

Based on the evidence submitted, I agree with the findings of the agency. The documentation submitted with the PA request does not support the request for PCW services. The testimony of the Petitioner at the hearing is inconsistent with the physician visit notes. Without any documentation or evidence to support the assertion that the Petitioner requires PCW assistance, I conclude the agency properly denied the PA request.

### **CONCLUSIONS OF LAW**

The agency properly denied the Petitioner's PA request for PCW services.

**THEREFORE, it is**

**ORDERED**

The Petitioner's appeal is dismissed.

**REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found 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 served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 28th day of August, 2014

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\sDebra Bursinger  
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 28, 2014.

Division of Health Care Access and Accountability