



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/158794

PRELIMINARY RECITALS

Pursuant to a petition filed July 1, 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 August 13, 2014, by telephone.

The issue for determination is whether the Division correctly approved the petitioner's prior authorization request for PCW services at the level of 12.0 hours weekly.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

I

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Robert Derendinger, RN, BSN
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. In September, 2013, a prior authorization request (#...176) was submitted on the petitioner's behalf for 37.25 hours weekly of PCW services, beginning September 16, 2013. On May 12, 2014, the provider submitted an amendment due to a change in the petitioner's condition; the new requested PCW amount was 12 hours weekly. The Division then issued written notice that it was modifying the request by approving 12 hours of PCW weekly time on June 9, 2014.
3. The Division's basis for service reduction was that the number of previously requested hours was not medically necessary. In particular, the Division concluded that this level of PCW services was not needed because the physician's orders changed and the PCST did not state that the petitioner needed daily bathing, help with upper body dressing, and grooming.
4. The petitioner, age 55, resides alone in the community. The petitioner has diagnoses of controlled diabetes type II, schizoaffective disorder, bipolar disorder, obesity, low vision, osteoarthritis of the right hip and toe, hypertension, and a history of left small toe fracture. She has functional limitations in the areas of incontinence, low vision and ambulation.

A state Personal Care Screening Tool (PCST) review was performed by a nurse for the petitioner on March 6, 2014. The PCST program concluded that the petitioner requires 12.0 hours of PCW care weekly. The PCST results declared that the petitioner required PCW physical assistance with bathing four times weekly, lower body dressing daily, incontinence care three times weekly, and transfers. She feeds herself and ambulates with a cane.
5. The May 2014 amendment contained physician orders from Dr. [REDACTED] [REDACTED], dated May 5, 2014, to reduce the PCW hours to 12.0 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 Division argues that the authorization criteria have not been satisfied for the reason given in Finding #3 above.

The Department asserts that it has reduced the PCW time to the amount it believes is necessary to perform purely PCW tasks. The petitioner contends that s/he continues to need 37.25 PCW hours.

The state code does restrict 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).

The petitioner agreed that she bathes four times weekly, with extra times in hot weather. She also agrees that she is now able to perform upper body dressing. No credible evidence was presented to support increasing the hours above 12.0 hours weekly. Thus, the authorization will not be changed.

The petitioner currently does not have adaptive aids in her bathroom. She complained that her toilet is too low, and that she has trouble getting up and down on it. The petitioner may wish to ask her doctor to write a prescription for a toilet aid (for example, a raised toilet seat with arms), which she should then take to any Medicaid equipment provider, to obtain such equipment.

CONCLUSIONS OF LAW

1. The petitioner requires 12.0 PCW hours weekly for the current authorization period (May 5, 2014 onward).

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 29th day of September, 2014

\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 September 29, 2014.

Division of Health Care Access and Accountability