



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

██████████
██████████
██████████
██████████

DECISION

MPA/159200

PRELIMINARY RECITALS

Pursuant to a petition filed July 22, 2014, under Wis. Stat., §49.45(5), to review a decision by the Division of Health Care Access and Accountability (DHCAA) to modify a Medical Assistance (MA) prior authorization request for personal care worker (PCW) services, a hearing was held on September 3, 2014, by telephone. The record was held open two weeks for petitioner to provide additional medical evidence. No additional evidence was received.

The issue for determination is whether the DHCAA correctly determined the approved PCW hours.

PARTIES IN INTEREST:

Petitioner:

██████████
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Respondent:

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

By: Written submission of Robert Derendinger, Nurse consultant

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a 59-year-old resident of Milwaukee County who receives MA.
2. Petitioner has arthritis, fibromyalgia, depression, irritable bowel syndrome, and hypertension. She requires assistance with bathing and tasks incidental to bathing.
3. On April 15, 2014, Community Home Health Care requested 15.75 hours per week PCW services, PA no. ██████████. The assessment from Community stated that petitioner needs assistance not only with bathing but with PM dressing, toileting, and medication reminders.

4. The DHCAA reviewed notes from petitioner's most recent doctor visits. The notes showed that petitioner was not in distress, had normal range of motion and strength, and no signs of mental or emotional impairment. Petitioner was fully ambulatory. Based on those findings, the DHCAA reduced the PCW services to seven hours per week, based upon one hour per day for bathing and services incidental to bathing. The DHCAA reviewer found no basis for assistance with PM dressing or toileting, noting that petitioner has no adaptive equipment in her bathroom and that there is no medical record of a concern that petitioner might fall.
5. By a letter dated June 9, 2014, the DHCAA informed petitioner that it was reducing her authorized PCW services to seven hours per week.

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 uses a 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.

Based upon the evidence before me I conclude that the DHCAA authorization was appropriate. The only medical records show that petitioner is able to move about her residence freely, and that she has full range of motion and strength. The authorization acknowledges that petitioner has mobility problems for bathing. Petitioner testified that her pain is worse than reflected in the medical notes, but there is no medical evidence to support her testimony.

I conclude, therefore, that the reduction by the DHCAA was justifiable. I note that if the necessary care absolutely cannot be accomplished in the time allotted, or if petitioner has a change that negatively affects her health, a new request or amendment can be filed detailing why more time is needed.

CONCLUSIONS OF LAW

The DHCAA appropriately reduced a request for PCW services based upon petitioner's medical records and living situation.

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 22nd day of September, 2014

\sBrian C. Schneider
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 22, 2014.

Division of Health Care Access and Accountability