



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/159669

PRELIMINARY RECITALS

Pursuant to a petition filed August 8, 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 September 17, 2014, by telephone.

The issue for determination is whether the Division correctly authorized **15.75** hours of personal care worker (PCW) time weekly for the petitioner.

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 written submission of Cindy Zander, 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:

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. On June 19, 2014, a prior authorization request (#...176) was submitted on the petitioner's behalf for **15.75** hours weekly of PCW services, beginning June 3, 2014. On 8/5/2014, the Division issued written notice that it was approving the requested PCW time of 15.75 hours weekly).
3. The Division's basis for approving 15.75 hours was that this number of requested hours was medically necessary. Neither the provider nor the PCST stated that the petitioner required more time.
4. The petitioner, age 52, resides alone in the community. The petitioner has diagnoses of degenerative joint disease, chronic pain, fibromyalgia, diabetes mellitus type II, overactive bladder, and incontinence. She has functional limitations in the areas of incontinence, endurance and ambulation.

A state Personal Care Screening Tool (PCST) review was performed by a nurse for the petitioner on June 3, 2014. The PCST program concluded that the petitioner requires 15.75 hours of PCW care weekly. The PCST results declared that the petitioner required PCW physical assistance with bathing daily, lower body dressing daily, grooming twice daily, and transfers. She feeds herself, can dress her upper body, and walks with the use of a quad cane. The petitioner takes oral medications.
5. The petitioner did not document that she has care needs beyond those listed in the PCST.

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 been followed here.

The Department asserts that it has granted the PCW time it believes is necessary to perform purely PCW tasks. The petitioner contends that s/he needs more than the provider's requested care time.

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 testified that she needs additional care time, but offered no corroborating documentation or testimony. The Department's explanation of its position in its September 4, 2014, letter to the parties is persuasive, and I will not be awarding more hours here. The medical provider and the Division are in agreement, and I see no error.

CONCLUSIONS OF LAW

1. The petitioner requires 15.75 PCW hours weekly for the current authorization period.

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 18th 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 18, 2014.

Division of Health Care Access and Accountability