



**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/159786

PRELIMINARY RECITALS

Pursuant to a petition filed August 12, 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 telephonic hearing was held on October 08, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether there is any justiciable issue for the Division of Hearings and Appeals (DHA), because petitioner's prior authorization (PA) for 26.25 hours of personal care worker (PCW) services plus 24 hours "as needed" (PRN) per year has been approved without any negative modification.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Representative:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Cindy Zander, nurse consultant
Office of the Inspector General (OIG)
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:

Gary M. Wolkstein
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Milwaukee County who resides with his family.
2. The petitioner is diagnosed with Schizophrenia and Autistic disorder with severe mental impairments. See August 27, 2014 letter of [REDACTED], MD.
3. On or about July 8, 2014, the petitioner's provider, [REDACTED], sent a prior authorization (PA) request to the Department on behalf of the petitioner requesting 26.25 hours per week of personal care worker (PCW) services plus 24 hours per year as needed (PRN). See Exhibit 2.
4. The Department sent a July 16, 2014 notice to the petitioner stating that his PA request (as stated in Finding of Fact #3 above) was approved with no reduction or modification.
5. Office of the Inspector General (OIS) nurse consultant, Cindy Zander, sent a September 4, 2014 summary statement to DHA and the petitioner stating that: a) petitioner's appeal should be dismissed basically as moot because the petitioner's PA request has been approved in its entirety; and b) As petitioner has not established any denial or negative modification in his requested PCW services, there is no right to a DHA hearing pursuant to DHS 104.01(5)(b), Wis. Adm. Code.

DISCUSSION

During the October 8, 2014 hearing, petitioner's representative and mother, [REDACTED], was unable to explain why she was appealing this case on behalf of her son. It appeared that petitioner's mother may have filed this appeal with DHA because she wanted to lodge a complaint about the quality of services provided to her son by her provider, [REDACTED]. However, petitioner agreed that the PA request for PCW services for her son had been approved in its entirety. Because petitioner's PA request was not denied or reduced, she has not legitimate appeal issue for a hearing right before DHA pursuant to DHS 104.01(5)(b), Wis. Adm. Code.

CONCLUSIONS OF LAW

There is no there is no justiciable issue for the Division of Hearings and Appeals (DHA), because petitioner's prior authorization (PA) for 26.25 hours of personal care worker (PCW) services plus 24 hours PRN per year has been approved without any negative reduction or modification.

THEREFORE, it is

ORDERED

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 10th day of November, 2014

\sGary M. Wolkstein
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 November 10, 2014.

Division of Health Care Access and Accountability