



STATE OF WISCONSIN  
Division of Hearings and Appeals

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In the Matter of

[REDACTED]  
[REDACTED]  
*Redact*

DECISION

HMO/160345

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**PRELIMINARY RECITALS**

Pursuant to a petition filed September 03, 2014, under Wis. Stat. § 49.45(5)(a), and Wis. Admin. Code § HA 3.03, to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance, a telephone hearing was held on October 28, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly modified the petitioner's approved personal care worker (PCW) hours to 6.25 hours/week.

There appeared at that time the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
*Redact*

Respondent:

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

By: Dr. Donna Davidoff  
Division of Health Care Access and Accountability  
Madison, WI

**ADMINISTRATIVE LAW JUDGE:**

Peter McCombs  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is a resident of Milwaukee County.
2. Petitioner has been diagnosed with morbid obesity and chronic airway obstruction, asthma, myalgia, myositis, hypertension, and chronic pain. She requires assistance with certain activities of daily living (ADLs), i.e., bathing, dressing and grooming.

3. Petitioner is enrolled in a Redact HMO with Redact. On February 28, 2014, the respondent notified petitioner that her request for 5 hours of PCW services/day was approved, but modified to 45 minutes/day.
4. Petitioner filed a grievance request with her Redact HMO and received a resolution letter on March 19, 2014. She subsequently filed a grievance with the state HMO ombudsman and received a resolution letter dated July 21, 2014. Petitioner filed a request for Fair Hearing on September 3, 2014.
5. The respondent granted daily time for bathing, dressing, and grooming. The total time approved (290 minutes for ADL's and 97 minutes for services incidental to tasks) was 387 minutes (26 15-minute units) 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 approved 26 units of PCW services each week for the petitioner. To reach this figure the DHCAA initially used the 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. The DHCAA then adjusted the tool's results based upon Department maximum time allowances and considerations of petitioner's medical records.

The reason that the DHCAA now is looking closely at PCW requests is evident in a case such as this one. Petitioner did not provide specific times necessary for providing the PCW services, but instead testified that more time was needed than the maximums because of petitioner's unique circumstances and needs. Nothing was quantified. Without a better way to quantify the time for services, however, I find it difficult to add more time. The picture is further muddled by the fact that two functional screens were provided by petitioner's provider, and that they included some conflicting information.

Petitioner should be aware that if her provider can show a medical need for more time, it can always request an amendment for additional time with evidence to show the need for the additional time. However, based upon the evidence before me I cannot conclude that the reduction to 26 units per week was wrong.

**CONCLUSIONS OF LAW**

The DHCAA's modification of the request for PCW hours was appropriate based upon petitioner's medical needs and the Department's policies for PCW approval.

**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 8th day of December, 2014

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\sPeter McCombs  
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 December 8, 2014.

Division of Health Care Access and Accountability

Attorney Redact