



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/160426

PRELIMINARY RECITALS

Pursuant to a petition filed September 04, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Office of the Inspector General (OIG) in regard to Medical Assistance, a telephone hearing was held on October 15, 2014.

The issue for determination is whether the OIG authorized appropriate PCW hours.

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

Written appearance by: Robert Derendinger, RN, BSN
Office of the Inspector General
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a 52 year old resident of Milwaukee County who receives MA.
2. Petitioner has left-sided weakness, rheumatoid arthritis, asthma, bronchitis, back pain, hypertension, depression and incontinence. She requires assistance with certain activities of daily living (ADL's), including bathing, dressing, and grooming.
3. On July 28, 2014, [REDACTED] requested authorization for 24.5 hours per week PCW services, 7 hours per week travel time, and 24 hours per year "as-needed" time for a

one-year period effective July 2, 2014, PA no. [REDACTED]. By a letter dated August 28, 2014, the OIG granted 8.75 hours of PCW services per week, in addition to 3.5 hours per week for travel time.

4. The OIG granted daily time for ADL's including bathing (30 minutes), dressing (20 minutes), grooming (10 minutes), and services incidental to tasks (15 minutes). No time was given for toileting or transfers.

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 OIG approved 8.75 hours of PCW services each week for the petitioner. To reach this figure the OIG reviewed 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 OIG's reviewer can then adjust to account for variables missing from the screening tool's calculations. The OIG then adjusted the tool's results based upon Department maximum time allowances and considerations of petitioner's medical records, including her Plan of Care.

The reason that the OIG now is looking closely at PCW requests is evident in a case such as this one. The petitioner has failed to 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. In addition, the petitioner's own Plan of Care is at odds with the Screening Tool with regard to petitioner's claims of incontinence, and some therapy notes that indicate that the petitioner is independent with advanced ADL's. As such, I find no error with the modification to the PA request's PCW hours.

I also concur with the travel time modification from 7 hours per week to 1.75 hours per week. This is based upon the OIG finding that petitioner and her PCW live very close to one another.

Petitioner should be aware that if [REDACTED] 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 8.75 hours per week for PCW services was wrong.

CONCLUSIONS OF LAW

The OIG'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 24th day of November, 2014.

\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 November 24, 2014.

Division of Health Care Access and Accountability