FH

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

Redact

DECISION

MPA/160855

PRELIMINARY RECITALS

Pursuant to a petition filed September 23, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the respondent in regard to Medical Assistance, a hearing was held on October 30, 2014, at Milwaukee, Wisconsin.

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

There appeared at that time and place the following persons:

PARTIES IN INTEREST:
Petitioner:

Redact

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703
By: Kelly Townsend, RN
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 resident of Milwaukee County. She has diagnoses of asthma, sarcoidosis, hypothyroidism and hyperlipidemia.

2. Petitioner has functional limitations including bowel/bladder incontinence, endurance and dyspnea with minimal exertion. Her indicated durable medical equipment and supplies include a nebulizer, grab bars, and incontinence pads. Petitioner's mother is her care worker.

3. Petitioner's provider completed 3 Personal Care Screening Tool assessments on May 17, 2014.

4. On May 28, 2014, Community Home Health Care, Inc. requested authorization for 15.75 hours per week PCW services for a one-year period effective May 17, 2014, PA no. 5141480220. By a letter dated August 20, 2014, the respondent granted seven hours per week (additional "as-needed" time was not granted as requested).

5. The respondent granted daily time for bathing, assistance with dressing and serviced incidental to tasks, a total of 60 minutes per day.

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 respondent approved 7 hours of PCW services each week for the petitioner. To reach this figure the respondent initially used the Personal Care Screening Tool (PCST), 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 respondent's reviewer can then adjust to account for variables missing from the screening tool's calculations. The respondent then adjusted the tool's results based upon maximum time allowances and considerations of petitioner's medical records.

The reason that the respondent 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 medically necessary 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

medically necessary services, however, I find it difficult to add more time. A potential problem with family members being the personal care workers is that they may take more time to do care tasks due to extra carefulness or inexperience. In this case, a troubling aspect is the completion of three PCSTs, and the fact that they contain conflicting information.

Petitioner should be aware that if her provider can demonstrate 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 7 hours per week was wrong.

CONCLUSIONS OF LAW

The respondent'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 5th day of December, 2014

\sPeter McCombs
Administrative Law Judge
Division of Hearings and Appeals

State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: http://dha.state.wi.us

The preceding decision was sent to the following parties on December 5, 2014.

Division of Health Care Access and Accountability