



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

Redact
Redact
Redact

DECISION

MPA/162037

PRELIMINARY RECITALS

Pursuant to a petition filed November 18, 2014, under Wis. Stat., §49.45(5), to review a decision by the Division of Health Care Access and Accountability (DHCAA) to modify a Medical Assistance (MA) prior authorization request for personal care worker (PCW) services, a hearing was held on December 9, 2014, by telephone.

The issue for determination is whether the Division of Hearings and Appeals can increase petitioner's PCW hours above the amount requested.

PARTIES IN INTEREST:

Petitioner:

Redact
Redact
Redact

Respondent:

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

By: Written submission of Cindy Zander, Nurse Consultant

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # Redact) is a resident of Milwaukee County.
2. Petitioner requires PCW assistance. On August 7, 2014, Redact requested 21 hours per week PCW services and 24 additional hours per year on an as needed basis, PA no. Redact. By a letter dated October 7, 2014, the DHCAA granted 20.5 hours per week, and denied the as needed hours because there was no doctor order for those hours.
3. Petitioner filed this appeal. While the appeal was pending, the DHCAA restored the half-hour reduction so that 21 hours per week services were approved retroactive to the start date.

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. If prior authorization is requested, it is the provider's responsibility to justify the need for the service. Wis. Admin. Code, §DHS 107.02(3)(d)6.

Two things occurred here. First, the DHCAA reduced the original request by one-half hour per week, and petitioner appealed. That action has been reversed. The original request for 21 hours per week is in place retroactive to the start date. Second, the DHCAA denied the 24 hours per year as needed services because there was no doctor's order. As noted above, the provider must justify the need for the services, and without a doctor's order for the services they cannot be justified. This situation is easily resolved. Redact needs to simply obtain petitioner's doctor's order for the as needed hours, and it then can submit a request for an amendment to the authorization.

Petitioner now believes that she needs more weekly hours because her condition has worsened. She said that her nurse told her to file this appeal. Obviously I do not know what was said between petitioner and the nurse, but the Division of Hearings and Appeals has no authority to increase PCW hours above the amount requested. This office is reviewing whether the DHCAA action on the prior authorization request was correct; this office is not a medical review office. The way to increase petitioner's weekly hours is for Redact to do a new assessment of petitioner's PCW needs, and if more hours are needed, it can file an amendment request for more hours based upon the new assessment.

At this point I must conclude that the DHCAA actions were appropriate. It approved all requested weekly hours, and it denied yearly as needed hours because there was no doctor's order for those additional hours.

CONCLUSIONS OF LAW

The DHCAA correctly acted on the request for PCW hours filed in August, 2014.

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 11th day of December, 2014

\sBrian C. Schneider
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 11, 2014.

Division of Health Care Access and Accountability