



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

In the Matter of

[Redacted]
Redact
[Redacted]

DECISION

MPA/161512

PRELIMINARY RECITALS

Pursuant to a petition filed October 24, 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 in regard to Medical Assistance, a telephone hearing was held on November 25, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether the respondent correctly modified petitioner's request for Personal Care Worker (PCW) services.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[Redacted]
Redact
[Redacted]

Respondent:

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

Written Appearance by: [Redacted], 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 47 year old resident of Milwaukee County who lives alone.
2. Petitioner's current diagnoses are cervical disc displacement, acquired ankle-foot deformity, chronic pain, and hypertension. Petitioner has a functional limitation regarding endurance, and requires assistance with activities of daily living (ADLs); until the current request he was authorized for at least 20 hours per week PCW services.
3. On August 11, 2014, [Redact] requested authorization for 20.25 hours per week PCW services for a one-year period effective September 16, 2014, PA no. [Redact]. The PA also requested 7 hours per week travel time for the PCW and 4 as-needed (PRN) hours of time. By a letter dated September 15, 2014, the respondent granted 9.25 hours per week PCW time; travel time and the additional "as-needed" time were granted as requested.
4. The DHCAA granted 210 minutes per week for bathing, 140 minutes per week for dressing upper and lower body, 70 minutes per week for grooming, and 140 minutes per week for incidental services. No time was given for mobility and 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 9.25 hours of PCW services each week for the petitioner. To reach this figure the OIG 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 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.

The reason that the OIG 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. Petitioner asserted that his PCW does not have enough time to do the laundry and cooking, and that even an extra few hours per day would help. While I understand his situation, without a better way to quantify the time for services, I find it difficult to add more time. In addition, while it is true that at least 20 weekly PCW hours were authorized in the past, it is likely that this request was the first one reviewed thoroughly by the OIG.

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 9.25 hours per week 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 15th day of January, 2015.

\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 January 15, 2015.

Division of Health Care Access and Accountability