



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

Redact

DECISION

MPA/161689

PRELIMINARY RECITALS

Pursuant to a petition filed October 29, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance, a telephonic hearing was held on December 03, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether the Department correctly modified (reduced) the petitioner's prior authorization (PA) request for personal care worker (PCW) hours from 20.5 to 7 hours per week.

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: Redact, RN, nurse consultant
Division of Health Care Access and Accountability
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:

Gary M. Wolkstein
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # Redact) is a 59 year old resident of Milwaukee County who lives with her two sons. One of her sons, Redact, is her paid personal care worker (PCW).

2. The petitioner has the following diagnoses: low back pain, low blood potassium, chronic pain, dyslipidemia, spasm of muscles, swelling of limbs, high blood pressure, Type 2 Diabetes, carpal tunnel syndrome, and gastroesophageal reflux.
3. The petitioner's only functional limitation is endurance.
4. Petitioner uses a cane for assistance with mobilization and a shower chair.
5. On or about September 3, 2014, the petitioner's fee-for-service provider, Redact, requested prior authorization (PA) for MA coverage of personal care worker (PCW) hours of 20.5 hours per week for 53 weeks. See Exhibit 2. The PA inaccurately and incorrectly indicated the requested cost to be \$3,494.184.00 demonstrating the lack of any proofreading by the provider.
6. The petitioner's Personal Care Screening Tool (PCST) was completed by screener, Redact RN Redact, on July 25, 2014 at petitioner's home. See Exhibit 2. In that PCST, the screener generally evaluated the petitioner's needs to be 20.5 hours per week of personal care worker hour services. The alleged assistance with activities of daily living (ADLs) included bathing with partial physical assistance of another person. The PCST also indicates petitioner dresses with some supervision and assistance with removal of her anti-embolism stockings. The PCST indicates the petitioner needs partial physical assistance to groom herself twice daily. Petitioner feeds herself, but requires some assistance at meal time with setup for all three meals. Petitioner is able to transfer, toilet and move about the home by herself. Petitioner needs reminder to take her medication twice daily. Petitioner was not documented as having behaviors or medical conditions that interfere with the PCW's assistance with cares or present unique challenges which results in a long term need for extra time to perform cares.
7. Based upon his Personal Care Activity Time Allocation Table and his PCST, the petitioner was approved for the following reduced amount of 7.0 hours of PCW services per week: a) Bathing daily – 420 minutes per week (60 minutes per day); b) Dressing Upper and Lower Body – 0 – petitioner is able to dress herself without any physical assistance; c) Anti-Embolism (TED) removal – 0 because no written orders of a physician and a written plan of care; d) Grooming – 0 – grooming was included in the 60 minutes per day of bathing; e) Eating assistance – 0 – petitioner is able to eat independently. She does not need any adaptive eating utensil; f) Mobility, Toileting and Transfers – 0 – petitioner is basically independent, only uses a cane; g) Glucometer readings – 0 – there is no physician or RN order in plan of care for glucometer reading assistance; h) Services Incidental to tasks – 0 minutes per week because with bathing as the only task for which PCW is allocated, a daily maximum total of 60 minutes is to be allowed. The petitioner's total ADL and MOT were 7 hours per week (28 units).
8. On review of the PA Request, the Office of the Inspector General (OIG) modified the prior authorization request from the requested 20.5 to 7.00 PCW hours per week based upon the Personal Cares Screening Tool (PCST) assessing the petitioner's PCW needs and further investigation of that assessment, based upon Finding of Fact #7 above and OIG's November 25, 2014 detailed summary letter by RN Redact (Exhibit 1).
9. OIG issued a letter Notice to the petitioner's representative informing her that petitioner's PA requested personal care worker services had been reduced from 20.5 to 7.0 hours per week, and then approved as modified.
10. During the hearing, petitioner did not establish with any reliable evidence or documentation that petitioner has PCW needs above the approved amount of 7.0 hours per week.

DISCUSSION

The Office of the Inspector General (OIG) may only reimburse providers for medically necessary and appropriate health care services and equipment listed in Wis. Stat. §§ 49.46(2) and 49.47(6)(a), as implemented by Wis. Admin. Code Ch. DHS 107. Some services and equipment are covered if a prior authorization request is submitted and approved by the Division in advance of receiving the service. Finally, some services and equipment are never covered by the MA program.

In the case of PCW services, MA pays only for medically-oriented activities related to assisting a recipient with activities of daily living necessary to maintain the recipient in his place of residence in the community. Wis. Admin. Code § DHS 107.112(1)(a). **Covered PCW services include only 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(1)(b).

Further, **PCW services must be provided according to a written plan of care that is based on an evaluation made by an RN who has visited the recipient's home. Wis. Admin. Code §§ DHS 107.112(1)(a) & (3)(b).**

During the December 3, 2014 hearing, the petitioner argued in vague terms that she felt that she needed more than 7 hours per week of PCW hours. The petitioner did not offer any new evidence into the hearing record to support her argument. Petitioner was unable to specifically indicate any area where the approved 7 hours of PCW hours was insufficient to meet the petitioner's PCW physical limitations or medical needs in any of the above 13 covered PCW services in which the provider had submitted an order with a plan of care. The submitted PA documentation did not support the medical necessity for any specific need for the petitioner's PCW hours to be increased above 7 hours per week.

On the other hand, OIG nurse consultant, Redact, provided specific evidence and documentation to establish that the above 13 covered PCW services could be completed for petitioner in the reduced amount of 7.0 hours of PCW hours each week for the petitioner. See Finding of Fact #7 above and Exhibit 1.

The petitioner was unable to refute the Department's persuasive written arguments and exhibits. Furthermore, petitioner was unable to establish that she has any covered PCW needs that are not being met by the 7 PCW hours approved by the Department. Accordingly, based upon review of the entire hearing record, I conclude that the Department correctly modified (reduced) the petitioner's prior authorization request for personal care worker (PCW) hours from 20.5 to 7 hours per week.

CONCLUSIONS OF LAW

The Department correctly modified (reduced) the petitioner's prior authorization request for personal care worker (PCW) hours from 20.5 to 7 hours per week.

THEREFORE, it is

ORDERED

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 20th day of January, 2015

\sGary M. Wolkstein
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 20, 2015.

Division of Health Care Access and Accountability