



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of:

[Redacted]
[Redacted]
[Redacted]
[Redacted]

DECISION

MPA/162123

PRELIMINARY RECITALS

Pursuant to a petition filed November 19, 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 ["MA"], a Hearing was held via telephone on December 16, 2014.

The issue for determination is whether OIG was correct to modify Prior Authorization ["PA"] # [Redacted] by approving only 15.25 hours per week of Personal Care Worker ["PCW"] time instead of the 32.5 hours per week that was requested.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

[Redacted]
[Redacted]
[Redacted]
[Redacted]

Represented by:

[Redacted], petitioner's
parents
[Redacted]

Respondent:

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

BY: [Redacted], Registered Nurse ["RN"], Nurse Consultant
Office of the Inspector General
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53701-0309

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (21 years old) is a resident of Manitowoc County, Wisconsin.
2. Petitioner lives with both his parents who are also his caregivers (his father is his PCW provider and his mother is his Supportive Home Care ["SHC"] worker through the MA Include, Respect, I Self-Direct program ["IRIS"]). Attachment #7.
3. Petitioner was diagnosed with autism in 1994 and also has diagnosis developmental delay and vitamin D deficiency; he is non-verbal and requires 24 hour per day supervision. Attachments #5 & #7.
4. On May 6, 2014 petitioner's provider, Homecare Services, Inc. of Manitowoc, Wisconsin, filed PA # [Redact] dated May 6, 2014 with OIG requesting 130 units (32.5 hours) per week of PCW services and 96 units (24 hours) per year PRN ("pro re nata" -- i.e. as needed) PCW time all for 53 weeks with a requested start dated of May 10, 2014 at a total cost of \$31,017.84. Attachment #1.
5. OIG modified PA # [Redact] by approving 61 units (15.25 hours) per week of PCW time instead of the 130 units (32.5 hours) per week that were requested; OIG also approved the 96 units (24 hours) per year of PRN PCW time that was requested; OIG sent a letter to petitioner dated November 3, 2014 and entitled *BadgerCare Plus Notice of Appeal Rights* informing petitioner of the modification. Attachments #3 & #4.
6. A *Personal Care Screening Tool* ["PCST"] was completed on May 2, 2014 and allocated 130 units (32.5 hours) per week of Activities of Daily Living ["ADL"] assistance, and 96 (24 hours) per year PRN units, for petitioner. Attachment #2.
7. OIG reviewed the PCST; this review included: an August 13, 2014 in-home evaluation visit of petitioner by 2 nurse consultants; a December 2013 *Long Term Care Functional Screen Report* of petitioner; and, use of the *Personal Care Screening Tool (PCST) Completion Instructions* [F-11133A (07/12)] ["PCST Instructions"] and the *Personal Care Activity Time Allocation Table* ["PCATAC"]. Attachments #5, #6 & #8.
8. OIG's review of the PCST found that it was not correct because it did not follow the PCST Instructions; OIG determined that a correct application of the PCST Instructions resulted in an allocation of 61 units (15.25 hours) per week of PCW time. Attachments #6, #8 & #9.

DISCUSSION

By law, MA pays only for medically necessary and appropriate health care services when provided to currently eligible MA recipients. Wis. Admin. Code § DHS 107.01(1) (February 2014); See also, Wis. Stat. §§ 49.46(2) & 49.47(6)(a) (2011-12). 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 or her place of residence in the community. Wis. Admin. Code § DHS 107.112(1)(a) (February 2014). Further, some medically oriented tasks may be covered as PCW services if the PCW has received special training in performing the task. Wis. Admin. Code §§ DHS 107.112(2)(b) & 107.11(2)(b)1. (February 2014). PCW services must be performed according to a written plan of care developed by a Registered Nurse ["RN"]. The plan must be based on the RN's visit to the recipient's home and must be reviewed by the RN at least every 60 days via a home visit. Wis. Admin. Code §§ DHS 107.112(3)(b) & (c) (February 2014).

In addition to the medically oriented tasks allowed for PCW's that have received special training, the only PCW services covered are 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) & (4)(f) (February 2014).

The PCST Instructions provide that: paid PCW time is provided for supervision only if the PCW will physically intervene to ensure the member performs the activity safely. Watching a member execute a task by him/herself without physical intervention is not reimbursable [PCST Instructions, page 2; see also, page 9; Attachment #9]; time for bathing includes time for assistance with changing clothes [PCST Instructions, page 4]; dressing time is time for typical clothing changes from sleepwear to daywear and for daywear to sleepwear; it does not include time related to urinary or bowel incontinence which is included as part of toileting assistance [PCST Instructions, page 5]; eating means the ability to use conventional or adaptive utensils to ingest meals by mouth (it does not include assistance with meal preparation; time for meal preparation is included with time for services incidental to ADL); assistance with eating does not include cutting, spreading, and stirring foods which is included with meal preparation [PCST Instructions, page 7]; if additional PCW time is to be allowed for behaviors the behavior must be listed and a description must be provided of how the behavior make PCW tasks more time consuming to complete; examples include hitting, kicking, and physically resisting all care performed [PCST Instructions, page 13].

The above instructions were not correctly followed when the PCAST was completed. For instance, time was allotted for both bathing and dressing, but bathing is to include time for assistance with changing clothes as per the PCST instructions. Therefore, time should be allotted for dressing only 1 time per day (the 2nd time is covered under bathing). Additionally, the evidence in the record of this matter is that petitioner is able to feed himself but requires constant supervision and that meat to be cut up. As per the PCST Instructions time for supervision is provided only if the PCW must physically intervene and assistance with eating does not include cutting (which is included with meal preparation). Therefore, the PCST should not have allowed any PCW time for eating. Under "Behaviors" the PSCT states that petitioner requires 24 hour supervision – but, as noted above, time for supervision is provided only if the PCW must physically intervene. There is also evidence that petitioner has loud verbal outbursts about 2

times per day – but examples of behavior for which additional PCW time is allowed are hitting, kicking, and physically resisting.

Petitioner argues that he was previously receiving 32.5 hours per week of PCW services and that his condition has not changed. However, the previous 32.5 hours was based on a PSCT that had not been reviewed by OIG. Petitioner’s parents testified that petitioner requires a full skin care regime (back, chest, shoulders, and face) -- but this is not noted in the PCST nor was time for this requested by petitioner’s provider.

Based on the evidence in the record of this matter, OIG’s determination will be upheld. Petitioner may, if he wishes, have his provider file another PA request if he has additional documentation that supports increased PCW time.

CONCLUSIONS OF LAW

For the reasons explained above, OIG was correct to modify PA # Redact by approving only 15.25 hours per week of PCW time instead of the 32.5 hours per week that was requested.

NOW, 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 23rd day of January, 2015

\sSean P. Maloney
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 23, 2015.

Division of Health Care Access and Accountability