



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MPA/162168

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**PRELIMINARY RECITALS**

Pursuant to a petition filed November 20, 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 December 23, 2014. A hearing previously scheduled for December 18, 2014, was rescheduled at petitioner's request.

The issue for determination is whether the respondent correctly denied petitioner's request for Personal Care Worker services.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

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

Written Appearance by: Sharon Beck, RN, BSN  
DHS – 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 (CARES # [REDACTED]) is a resident of Milwaukee County.

2. Petitioner has brachial neuritis, dysphagia, cervical radiculopathy, and his medical history is significant for throat cancer. He was previously determined to require assistance with activities of daily living (ADLs), and previous to the current prior authorization request he was authorized for 10.25 hours per week PCW services. His daughter is his care worker. Exhibit 4.
3. On September 16, 2014, [REDACTED], requested authorization for 23.5 hours per week PCW services for a one-year period effective August 26, 2014, PA no. [REDACTED]. Additional "as-needed" (PRN) time of 24 hours yearly was also requested. By a letter dated November 10, 2014, the respondent denied petitioner's prior authorization request. Exhibit 3.

### 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 denied the entirety of petitioner's prior authorization request, reasoning that he is presently stable medically, and PCW services are not medically necessary. The respondent, after reviewing recent medical notes and the Personal Care Screening Tool findings noted the following:

... A new [prior authorization] request was submitted on 08/27/13, again requesting 41 units (10.25 hours) per week. The agency documented that the member had experienced a change in condition and now required additional assistance. As previously noted, [petitioner's] PEG tube stopped working and he had an infection in this throat which required a long course of antibiotics to resolve. Therefore services were approved as requested...

Exhibit 4.

That 2013 prior authorization approval followed on the heels of a prior authorization denial. The respondent's reversal of its earlier decision to deny in that case was due to the petitioner's demonstration

of need due to a change in his condition. The present request does not document any need or any change in condition.

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 the PCW services, but instead testified that more time was needed than the maximums because of petitioner's circumstances. Nothing was quantified. Without a better way to quantify the time for services, however, I find it difficult to approve any PCW time.

Petitioner should be aware that if Celestial Caregivers can show a medical need for more time, it can always submit a new prior authorization request with evidence to show the need for the PCW time. However, based upon the evidence before me I cannot conclude that the denial of PCW services at this time 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 4th day of February, 2015.

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\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 February 4, 2015.

Division of Health Care Access and Accountability