



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

MPA/162169

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 Department of Health Services' (DHS) Office of the Inspector General in regard to Medical Assistance, a telephone hearing was held on December 11, 2014.

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

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

Written Appearance by: Robert Derendinger, 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 (CARES # [redacted]) is a resident of Milwaukee County.
2. Petitioner has diagnoses of rheumatoid arthritis, back pain, hip pain, asthma, hypertension, and diabetes. She requires assistance with activities of daily living (ADLs), and until the current

request she was authorized for weekly PCW services at the same rate over the past seven years. Her son is her care worker.

3. On September 2, 2014, [REDACTED], requested authorization for 24.5 hours per week PCW services and 24 hours PRN (as needed) PCW services, for a one-year period effective September 10, 2014, identified as PA no. [REDACTED]. By a letter dated October 14, 2014, the respondent granted 17.5 hours per week. The requested PRN care hours were not approved because there were no physician orders associated with that portion of the request.
4. The respondent granted weekly time for bathing (120 minutes), dressing (140 minutes), grooming, (210 minutes), and toileting (280 minutes). Additionally 210 minutes per week were given for incidental services. No time was given for mobility, transfers, medication assistance, or glucometer readings.

DISCUSSION

The Division of Health Care Access And Accountability 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).

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 approved 17.5 hours of PCW services each week for the petitioner. To reach this figure the respondent 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 respondent's reviewer can then adjust to account for variables missing from the screening tool's calculations. The respondent then adjusted the tool's results based upon Department maximum time allowances and considerations of petitioner's medical records.

The reason that the respondent now is looking closely at PCW requests is evident in a case such as this one. Petitioner's provider failed to support its request with appropriate physician orders in the Plan of Care regarding medically oriented tasks (MOT's) such as glucometer readings and medication assistance. Furthermore, neither petitioner nor petitioner's son provided specific times necessary for providing other requested PCW services, such as transfers or mobility, but instead testified that more time was needed than the maximums because of petitioner's unique circumstances and needs. Nothing was quantified. Without a better way to quantify the time for services, however, I find it difficult to add more time. The problem with family members being the personal care workers is that they may take more time to do care tasks due to extra carefulness or inexperience, and thus the Department has set maximum times for a typical care worker. In addition, while it is true that greater hours were authorized in the past, it is likely that this request was the first one reviewed thoroughly by the respondent.

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, such as physician's orders included in petitioner's Plan of Care. However, based upon the evidence before me I cannot conclude that the reduction to 17.5 hours per week 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 2nd day of February, 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 February 2, 2015.

Division of Health Care Access and Accountability