FH

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

Redact
Redact

DECISION

HMO/162646

PRELIMINARY RECITALS

Pursuant to a petition filed December 12, 2014, under Wis. Stat. § 49.45(5)(a), and Wis. Admin. Code § HA 3.03, to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance, a hearing was held on February 18, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether the Department, by its HMO agent, i-Care, correctly reduced the petitioner's personal care worker hours from 3 hours per day to 1.25 hours per day.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:
Petitioner:

Redact
Redact

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703
By: Attorney Redact
iCare
1555 N. Rivercenter Drive
Suite 206
Milwaukee, WI 53212

ADMINISTRATIVE LAW JUDGE:
Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Milwaukee County. She is enrolled in i-Care. i-Care is a Wisconsin licensed health maintenance organization that contracts with the Department of Health Services to provide and pay for Medicaid (MA) benefits for SSI disabled eligible individuals. i-Care is responsible for making benefit coverage determinations under the MA plan.

2. The petitioner is 58 years old; she lives alone. Her primary diagnosis is osteoarthrosis. She uses durable medical equipment including a wheelchair, walker, cane, shower cair, grab bars, grabber device, and a raised toilet seat. See, Exhibit 2, att. 4.

3. On September 29, 2014, Independence First, submitted a Request for Prior Authorization to i-Care requesting approval of coverage by MA for 3 hours per day of personal care worker (PCW) services. See, Exhibit 3.

4. Attached to the Request for Prior Authorization, this same nurse provided a copy of a Department mandated Personal Care Screening Tool (PCST) assessment of the petitioner that concluded that she required 12 units per day of PCW care, i.e., an average of 3 hours per day, total. See, Exhibit 3-1.

5. In response to petitioner's PA Request and PCST, i-Care first sought an independent assessment. An independent in-home assessment was performed by Redact on October 6, 2014. Nurse Redact, a nurse consultant with the respondent's Office of the Inspector General summarized that in-home assessment as follows:

   > …Ms. Redact requires partial physical assistance to bathe. Comments indicate that she has a hand held shower, grab bars, and a shower chair. Ms. Redact reported needing assistance transferring to the shower chair secondary to having a "foot drop" on her right foot and fear of falling. She stated that she is able to wash most parts of her body and is able to wash her hair. In regards to dressing, she stated that she is able to dress her upper body independently and pun on her pajamas. She stated that she is able to dress her lower body independently. She demonstrated proper use of a grabber which she reported using to assist with putting on her underwear. She demonstrated the ability to tough her feet and put on her shoes and socks. In regards to grooming, she is documented as being able to groom herself independently. Ms. Redact stated that she completes grooming activities either sitting in her wheelchair or using her walker at the bathroom sink. She is independent with eating. She stated that the PCW prepares meals for her but that she is able to reheat meals. She talks part in a lunch program offered by her apartment building and eats lunch in the lunchroom one to two times a week. In regards to mobility, Ms. Redact demonstrated the ability to walk using her walker. She was noted to drag her right leg secondary to foot drop but was able to walk independently. She is independent with toileting. She has a raised toilet seat and stated that she is able to perform personal hygiene and clothing adjustment independently. She reported not being able to get to the bathroom quickly enough during the night and therefore wears Depends…to help with any urinary incontinence. She denied being incontinent of bowel. In regards to transfers, Ms. Redact was documented as being independent. She reported being able to get into bed and position herself and demonstrated standing from her wheelchair independently and ambulating throughout her apartment independently with her walker. She reported setting up her medications in a pill box and taking them independently. She reported understanding the use of her medication and reported compliance with taking them. Ms. Redact was also noted to be wearing a splint on her left wrist which she stated helped with pain. She was able to independently remove and apply the splint.

   See, Exhibit 2, att. 4.

6. On October 15, 2014, i-Care issued a letter Notice to the petitioner informing her that her PCW services request would be approved but modified, from 3 hours per day to 1.25 hours per day, based upon the independent assessment performed by the Redact nurse. Specifically, the Notice also stated that the petitioner was found to require assistance with bathing. Otherwise, the respondent concluded that the petitioner was able to do all mobility and other self-care tasks without direct physical assistance. See, Exhibit 2, att. 3.

7. On October 28, 2014, the petitioner appealed the reduction to the i-Care Grievance and Appeal Committee. Following a December 8, 2014 hearing, the Committee affirmed the 1.25 hour of PCW services.

8. On December 12, 2014, the petitioner filed an appeal with the Division of Hearings & Appeals contesting the reduction of PCW services. Exhibit 1.

9. On or about January 14, 2015, at the request of i-Care and the DHCAA Managed Care Section, Office of Inspector General Nurse Consultant Redact Redact, R.N., reviewed the clinical evidence on file from i-Care and prior PCST allocation. Nurse Redact determined that 1.25 hours of PCW time per day would be sufficient for petitioner. Exhibit 2, att. 4.

10. On or about February 5, 2015, Redact, Policy Analyst for DHCAA, prepared a Summary Letter reporting that Redact reviewed the clinical documentation, and Personal Care Screening Tool described above, and independently affirmed that 1.25 hours per day of PCW services will appropriately address the petitioner's PCW needs. Exhibit 2.

11. Also at the fair hearing, the petitioner asserted that she required more PCW service hours than i-Care approved, i.e., that she needs 3.0 hours per day. She generally averred that her physical limitations mean that she needs help with applying lotions, safely exiting the shower, and personal hygiene after toileting.

12. Nurse Redact found in her review that the petitioner needs 60 minutes per day for bathing, plus 15 minutes per day of incidental services (i.e., ¼ of the total ADLs for a member who lives alone.) See, Exhibit 2, att. 4.

DISCUSSION

i-Care is required to provide or arrange for the provision of medically necessary and appropriate medical services for its enrollees as required under Wis. Stats. § 49.46(2), and Wis. Admin. Code § DHS 107(1). Wisconsin Administrative Code § DHS 107.112(1) states that Wisconsin Medicaid covered personal care services are those medically oriented activities that are 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.

To obtain a PA for personal care services, providers are required to submit documents to the MA program that accurately and completely demonstrate the need for the requested personal care services. Providers are to use the Personal Care Screening Tool (PCST) to determine the allocation of PCW time needed. The PCST is a tool that collects information on an individual's ability to accomplish activities of daily living, instrumental activities of daily living, medically oriented tasks delegated by an RN and the member's need for personal care worker assistance with these activities in the home. The PCST must be completed based on a face-to-face evaluation of the member in the member's home. The screener must directly observe the member performing the activity before selecting the member's level of need.

A Personal Care Activity Time Allocation Table is used by providers to assist in prorating time for service-specific activities provided by personal care workers.

The clinical evidence and the review of the allocation by an independent nurse assessor from Brightside, a nurse consultant from the Office of the Inspector General, and a poli8cy analyst form the Bureau of Benefits management all concluded that the Personal Care Screening Tool and clinical records indicate 1.25 hours per day of PCW services will meet this petitioner's care needs. I find this to be overwhelmingly persuasive that the right result has been reached. In contrast, the testimony of petitioner and her personal care worker that petitioner needs more hours of a PCW attending to her to address personal hygiene after toileting and application of lotion for dry skin, is found to be uncorroborated by credible medical evidence or other evidence. The petitioner failed to successfully counter the evidence and testimony provided by the respondent.

Based on the evidence in this record produced by Quality Assurance and i-Care, I conclude that 1.25 hours per day of PCW prior authorized services was correctly determined by i-Care, and this determination must be sustained.

CONCLUSIONS OF LAW

The Department and its agent have correctly authorized 1.25 hours per day of PCW services for the petitioner.

THEREFORE, it is **ORDERED**

The petitioner for review is 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 25th day of March, 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 March 25, 2015.

iCare
Division of Health Care Access and Accountability