



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[Redacted]
[Redacted]
Redact

DECISION

MPA/162648

PRELIMINARY RECITALS

Pursuant to a petition filed December 15, 2014, under Wis. Stat., §49.45(5), to review a decision by the Division of Health Care Access and Accountability (DHCAA) to modify a Medical Assistance (MA) prior authorization for personal care worker (PCW) services, a hearing was held on January 20, 2015, by telephone.

The issue for determination is whether the DHCAA correctly reduced PCW hours.

PARTIES IN INTEREST:

Petitioner:

[Redacted]
[Redacted]
Redact

Respondent:

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

By: Written submission of [Redacted], Nurse Consultant

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a 57-year-old resident of Milwaukee County who receives MA.
2. Petitioner has chronic pain particularly in her back, depression, anxiety, reflux, liver disease, and a 35% disability in her right ankle. She has been receiving PCW services paid by the MA program.
3. On September 26, 2014, [Redacted] requested authorization for 29.75 hours per week PCW services (4.25 hours per day), PA no. [Redacted]. By a letter dated October 31, 2014, the DHCAA authorized 9.5 hours per week (one hour, 21 minutes per day).

4. In making the determination the DHCAA reviewed a number of doctor notes from visits between December, 2013 and September, 2014. The notes showed with regularity that petitioner had back and ankle pain and fatigue but also had normal range of motion, no edema or tenderness. Petitioner is able to ambulate. Mental health notes consistently showed petitioner as being stable. An occupational therapy note stated that petitioner was not at risk for falls, but did show difficulty with donning clothes, bathing, and grooming; range of motion was within functional limits. The DHCAA thus allowed 30 minutes per day for bathing (the maximum for someone without unusual problems), 20 minutes for dressing, and 15 minutes for grooming. Incidental services are provided at one-fourth of the time for hands-on services per MA policy.

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 DHCAA uses a 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 DHCAA’s reviewer can then adjust to account for variables missing from the screening tool’s calculations. The tool is only as good as the information entered, however, and the DHCAA will use other medical evidence to determine if the information entered in the tool is accurate. In this case the DHCAA found that petitioner’s medical records did not support the amount of time claimed in the tool. With normal range of motion, lack of edema and tenderness, and the ability to ambulate, there would be no need for assistance with cares such as range of motion exercise, transfers, and eating. The hours approved appear to be accurate based upon petitioner’s records.

Petitioner testified that her medical records are not accurate, noting a lack of communication with her doctor. However, the DHCAA must utilize petitioner’s medical records to determine the accuracy of the services. If the medical records do not describe petitioner’s actual condition, petitioner needs to work out the problem with her doctor.

Petitioner's care worker appeared with her at the hearing. I asked him to describe a typical day of care, and his description of hands-on care was virtually identical to the determination made by the DHCAA. Instead he focused on the amount of time he spent on cooking, cleaning, shopping, and laundry. Those are incidental tasks that can be approved under PCW cares only on a limited basis. He also mentioned the need to supervise petitioner to make sure she does not have an accident, but PCW services are typically not approved for supervision only. The agency looks at the hands-on cares that are necessary, and I cannot conclude that the DHCAA was wrong in its assessment of petitioner's needs.

CONCLUSIONS OF LAW

The DHCAA correctly determined that petitioner requires just 9.5 hours per week PCW services.

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 27th day of January, 2015

\sBrian C. Schneider
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 27, 2015.

Division of Health Care Access and Accountability