



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
Redact
[REDACTED]

DECISION

MPA/163347

PRELIMINARY RECITALS

Pursuant to a petition filed January 14, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability (DHCAA) in regard to Medical Assistance, a telephonic hearing was held on February 11, 2015, at Milwaukee, Wisconsin. At the very start of the hearing, petitioner alleged vaguely that she did not receive the Department's February 4, 2015 summary letter with attachments (Exhibit 1). However, she also admitted that she might have forgotten. This ALJ offered to reschedule the hearing if petitioner needed more time to prepare for the hearing. Petitioner specifically stated that she wanted to proceed with the hearing and did not want to reschedule.

The issue for determination is whether the Department correctly modified (reduced) the petitioner's prior authorization (PA) request for personal care worker (PCW) hours from 37.5 to 12.5 hours per week.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
Redact
[REDACTED]

Respondent:

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

By: *Reda Redact*, RN nurse consultant
Office of the Inspector General (OIG)
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:

Gary M. Wolkstein
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a 67 year old female resident of Milwaukee County who resides with her family.
2. The petitioner has the following diagnoses: Chronic Airway Obstruction, osteoarthritis, hypertension, and asthma.
3. The petitioner's functional limitations are endurance, some problems with ambulation, and dyspnea (shortness of breath) with minimal exertion.
4. Petitioner sometimes needs and uses a cane or wheeled walker for assistance with mobilization, a shower chair, and a nebulizer.
5. On or about September 3, 2014, the petitioner's fee-for-service provider, [Redact] requested prior authorization (PA) on behalf of the petitioner for MA coverage of personal care worker (PCW) hours of 14.75 hours per week for 53 weeks. See Attachment 6.
6. The petitioner's Personal Care Screening Tool (PCST) was completed by screener, [Redact] RN [Redact], on September 3, 2014 at petitioner's home. See Exhibit 2. In that PCST, the screener evaluated the petitioner's needs to be 14.75 hours per week of personal care worker hour services.
7. On or about September 29, 2014, the petitioner's second screening by the same provider, [Redact], requested prior authorization (PA) for MA coverage of personal care worker (PCW) hours at the increased amount of 37.5 hours per week for 53 weeks at a requested cost of \$159,000. See Exhibit 2.
8. The petitioner's Personal Care second Screening Tool (PCST) was completed by screener, [Redact] RN, [Redact], on September 23, 2014 at petitioner's home. See Exhibit 2. In that PCST, the screener evaluated the petitioner's needs to be 37.5 hours per week of personal care worker hour services.
9. Petitioner was not documented as having behaviors or medical conditions that interfere with the PCW's assistance with cares or present unique challenges which results in a long term need for extra time to perform cares.
10. In her February 4, 2015 detailed manual review by OIG RN nurse consultant [Redact], Ms. [Redact] persuasively questioned the petitioner's provider's ([Redact]) reliability and credibility, and whether the provider exaggerated petitioner's physical needs for PCW services. RN [Redact] noted "multiple discrepancies between the assessments of the two home care providers," especially given the three rather recent physician medical evaluations of petitioner by Dr. [Redact], MD on May 17, 2014, June 14, 2014, and August 8, 2014. See Exhibit 1, Attachment 3-5.
11. In Dr. [Redact]'s most recent August 8, 2014 report, the doctor confirmed that petitioner was diagnosed with allergic rhinitis, chronic sinusitis, and hypertension. Petitioner denied shortness of breath, was taking Ibuprofen for pain as needed, and continued to smoke a half pack of cigarettes daily. Her physical exam revealed normal neurological function. She has back and knee pain, but has full range of motion. The rest of her physical exam was otherwise unremarkable.
12. Based upon her Personal Care Activity Time Allocation Table and her PCST and Dr. [Redact]'s medical evaluations, the petitioner was approved for the following reduced total amount of 12.5 hours of PCW services per week: a) Bathing daily – 210 minutes per week (30 minutes per day); b) Dressing Upper and Lower Body – 0 minutes per week – dressing is included in task of bathing; c) Brace and Knee Brace placement/removal - 70 minutes per week; d) Mobility – 0 - no mobility assistance needs were documented; e) Eating assistance – 0 – petitioner is able to eat

independently with or without any adaptive eating utensils; e) Toileting/incontinence cares – 0 minutes per week – documentation did not support that petitioner has incontinence or that she requires assistance to toilet herself; f) Transfers – 210 per week; g) Nebulizer – 0 – petitioner has not documented any deficiency that would prevent her from completing that task; and h) Services Incidental to tasks – 187 minutes per week. The petitioner’s total ADL and MOT (medically oriented services) were 12.5 hours per week.

13. On review of the PA Request, the Office of the Inspector General (OIG) modified the prior authorization request from the requested 37.5 to 12.5 PCW hours per week based upon the Personal Cares Screening Tool (PCST) assessing the petitioner’s PCW needs and further investigation of that assessment, based upon Findings of Fact #5 - #11 above and OIG’s February 4, 2015 detailed summary letter by RN Reda Redact. (Exhibit 1).
14. OIG issued a letter Notice to the petitioner informing her that her PA requested personal care worker services had been reduced from 37.5 to 12.5 hours per week, and then approved as modified.
15. During the hearing, petitioner did not establish with any reliable evidence or documentation that she has PCW needs above the approved amount of 12.5 hours per week.

DISCUSSION

The Office of the Inspector General (OIG) 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).**

During the February 11, 2015 hearing, the petitioner argued in vague and unfocused terms that she felt that she needed more than 12.5 hours per week of PCW hours. The petitioner did not offer any new evidence into the hearing record to support her argument. Petitioner was unable to specifically indicate with any reliability an area where the approved 12.5 hours of PCW hours was insufficient to meet the petitioner's PCW physical limitations or medical needs in any of the above 13 covered PCW services in which the provider had submitted an order with a plan of care. The submitted PA documentation did not support the medical necessity for any specific need for the petitioner's PCW hours to be increased above 12.5 hours per week.

On the other hand, OIG nurse consultant, Redact Redact, provided specific evidence and documentation to establish that the above 13 covered PCW services could be completed for petitioner in the reduced amount of 12.5 hours of PCW hours each week for the petitioner. See above Findings of Fact and Exhibit 1. Ms. Redact presented persuasive evidence and arguments that the provider's (Gracious Home Care) PA request for 37.5 PCW hours per week for the petitioner was inflated and excessive.

The petitioner was unable to refute the Department's written arguments and exhibits. Furthermore, petitioner was unable to establish that she has any covered PCW needs that are not being met by the 12.5 PCW hours approved by the Department. Accordingly, based upon review of the entire hearing record, I conclude that the Department correctly modified (reduced) the petitioner's prior authorization request for personal care worker (PCW) hours from 37.5 to 12.5 hours per week.

CONCLUSIONS OF LAW

The Department correctly Department correctly modified (reduced) the petitioner's prior authorization (PA) request for personal care worker (PCW) hours from 37.5 to 12.5 hours per week.

THEREFORE, it is

ORDERED

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 9th day of April, 2015

\sGary M. Wolkstein
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 April 9, 2015.

Division of Health Care Access and Accountability