



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[Redacted]
Redact
[Redacted]
[Redacted]
[Redacted]

DECISION

MPA/163604

PRELIMINARY RECITALS

Pursuant to a petition filed January 30, 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 in regard to Medical Assistance, a hearing was held on February 19, 2015, at Siren, Wisconsin.

The issue for determination is whether the Office of Inspector General correctly denied the petitioner’s request for personal care worker hours.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[Redacted]
Redact
[Redacted]
[Redacted]
[Redacted]

Respondent:

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

By: [Redacted], R.N.
Division of Health Care Access and Accountability
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner is a resident of Burnett County.
2. The petitioner with 28 hours of personal care per week at a cost of \$24,412.46.

3. The petitioner is a 54-year-old woman diagnosed with diabetes, rheumatoid and other types of arthritis, psoriasis, and morbid obesity. She is 5'10" tall and weighs 425 pounds.
4. The petitioner sees a tribal nurse once a week.
5. The petitioner can feed, bathe, groom, and dress herself. She can cook and wash dishes, use the toilet, get in and out of bed, and do other transfers without assistance. She uses a walker to move about. She can only sweep for a few minutes at a time. Her daughter helps her shovel her walks. She cannot mow her own lawn.
6. The petitioner's prior authorization does not specify how she will use the 28 hours of care she requests each week.

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).

The list of covered services does not include supervision, teaching, or travel. Personal care workers can spend no more than one-third of their time performing housekeeping activities. Like all medical assistance services, personal care worker services must be medically necessary and cost effective. Wis. Admin. Code § DHS 107.02(3)(e)1 and 3.

The petitioner requests 28 hours of personal care per week. She clearly has physical problems: She is a 54-year-old woman diagnosed with diabetes, rheumatoid and other types of arthritis, psoriasis, and morbid obesity. She is 5'10" tall and weighs 425 pounds and moves about on a walker. But she has the burden of proving that she requires the requested help. She has not done so. She can feed, bathe, groom, and dress herself; cook and wash dishes; use the toilet; get in and out of bed; and do other transfers without assistance. Nothing in her request indicates what particular services listed in Wis. Admin. Code § DHS 107.112(b) she requires. Based upon this, I find that she has not met her burden of proof and must uphold the Office of Inspector General's denial.

CONCLUSIONS OF LAW

The Office of Inspector General correctly denied the petitioner's request for personal care worker hours because she has not proven by the preponderance of the credible evidence that she requires the service.

THEREFORE, it is

ORDERED

The petitioner's appeal 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 18th day of March, 2015

\sMichael D. O'Brien
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 18, 2015.

Division of Health Care Access and Accountability