



FH  
[REDACTED]

**STATE OF WISCONSIN  
Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MPA/163651

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**PRELIMINARY RECITALS**

Pursuant to a petition filed January 28, 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 telephone hearing was held on March 05, 2015. A hearing originally scheduled for February 18, 2014, was rescheduled at petitioner's request.

The issue for determination is whether the respondent correctly denied petitioner's Prior Authorization request for personal care worker services.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

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

By: Sharon Beck, RN, BSN  
Division of Health Care Access and Accountability  
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 underwent rotator cuff surgery in June, 2014, and attended therapy thereafter. Medical records indicate that petitioner has minor forgetfulness regarding his medications, has some hearing issues, but does not hear hearing aids, and wears corrective lenses. He continues to experience pain and stiffness in his shoulder, and reports some weakness, numbness, and tingling

in his right hand. His Plan of Care lists his functional limitations as endurance and ambulation. Petitioner uses a cane or walker, as well as a toilet seat raiser. Exhibit 2. Until the current request denial, he was authorized for daily PCW services over the past several years. Exhibit 3. His granddaughter was his care worker.

3. On October 6, 2014, Home at Heart, LLC, requested authorization for 27.75 hours per week PCW services for a one-year period effective October 1, 2014, PA no. [REDACTED]. By a letter dated December 18, 2014, the DHCAA denied the request.

### 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. At hearing on the issue of denial of a PA request, it is the burden of petitioner or the provider to establish the need and appropriateness of the requested services. Petitioner has done neither based on this record.

The reason that the respondent now is looking closely at PCW requests is evident in a case such as this one. Petitioner's medical records describe his as stable. At hearing, he did not provide specific times necessary for providing the requested PCW services, but instead testified that the assistance time was simply necessary because he has shortness of breath, and his PCW helped him by washing his back and going to the store for him. He further testified that his wife is also ill, and cannot help him; still, he acknowledged that he can do a lot on his own. Unfortunately, nothing was quantified or corroborated. Without better evidence to determine the necessity of and time for services, however, I find it difficult to approve any time. A recurring issue 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 PCW hours have been authorized in the past, the respondent explained that this request was the first one reviewed thoroughly by the respondent. The respondent further noted that the medical records indicate that the petitioner has well-managed pain and his medical condition is stable.

Petitioner should be aware that if Home at Heart, LLC can show a medical need for the request PCW time, it can always submit a new Prior Authorization request with evidence to show the need for the PCW time. However, based upon the evidence before me I cannot conclude that the Prior Authorization denial here was wrong.

**CONCLUSIONS OF LAW**

The respondent's denial 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 28th day of April, 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 April 28, 2015.

Division of Health Care Access and Accountability