



STATE OF WISCONSIN  
Division of Hearings and Appeals

---

In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MPA/163971

---

**PRELIMINARY RECITALS**

Pursuant to a petition filed February 14, 2015, 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 request for personal care worker (PCW) services, a hearing was held on March 5, 2015, by telephone.

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

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

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

By: Written submission of Cindy Zander, Nurse Consultant

**ADMINISTRATIVE LAW JUDGE:**

Brian C. Schneider  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a 56-year-old resident of Milwaukee County who receives MA. She resides with her adult son.
2. Petitioner has severe chronic obstructive pulmonary disease (COPD), chronic low back pain, and fibromyalgia. She also has right shoulder pain that, and has limited ability to lift her arms. She wears a wrist brace for relief from carpal tunnel syndrome. She walks with a cane or walker.
3. On December 26, 2014, Faith Family Services requested authorization for 36 hours per week PCW services, PA no. [REDACTED]. The request noted that petitioner needs assistance with bathing, dressing, putting on the wrist brace, grooming, meal preparation, mobility, toileting, transfers, medication assistance and set up of her nebulizer.

4. After reviewing petitioner's medical records the DHCAA authorized 23.5 hours weekly and added 24 additional hours per year to be used as needed because petitioner occasionally has episodes of acute need.
5. The DHCAA authorized 30 minutes per day for bathing, 20 minutes for dressing, 10 minutes per day four days per week for helping with the wrist brace, 30 minutes for grooming, 45 minutes for toileting and incontinence care, and 30 minutes for transferring. It added an additional hour and a quarter daily for incidental services, equaling one-fourth of the time allotted for cares because petitioner resides with her son. It added no time for mobility because petitioner was noted to walk with a cane "when necessary," and it cut the requested time for toileting. It did not add time to accommodate petitioner's behaviors because petitioner is noted to be alert and oriented with normal judgment and thought content.

### 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 now utilizes 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.

Petitioner appeared and testified. She reported that currently the PCW works from 6:00 to 8:00 every morning, and from 4:00 to 5:15 in the evening. Without providing specifics she testified that there is not enough time to get the tasks completed. When I asked specifically what was not being completed, she mentioned cleaning, and she does not get a second daily bath. She also mentioned not having someone to accompany her to appointments.

With regard to cleaning, the Department allows only one-fourth of the total time for incidental services such as cleaning when the person lives with a family member. The reason is that it is expected that the

family member would be responsible for cleaning his own residence, making meals, and doing laundry. Thus time is added on to account for additional time necessary for those activities beyond the norm for the family member. It is not surprising then that the PCW does not complete all cleaning.

With regard to bathing there is nothing in the screening tool or other medical record reporting a need to have two baths per day. That appears to be a preference for petitioner, but not one that is medically necessary.

With regard to medical appointments petitioner reported that she has many such appointments, but the record does not support that statement. Furthermore, if an attendant is necessary the as needed PCW time can be used.

Petitioner presented a letter from her psychologist that discusses her mental diagnoses and medications. The psychologist concludes that petitioner requires at least five hours per day PCW assistance. There is no evidence that the psychologist is qualified to make that judgment.

At this point I have no basis for reversing the DHCAA's determination on petitioner's PCW hours. There is insufficient evidence to support a need for more hours than the ones authorized. Petitioner should note, however, that if the approved hours truly are insufficient, Faith Family Services may request an amendment to the authorized hours with evidence showing the need for more than 23.5 hours weekly. This can also occur if petitioner's condition worsens or changes.

### **CONCLUSIONS OF LAW**

The DHCAA correctly determined petitioner's necessary PCW services after the December, 2014 authorization request.

**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 11th day of March, 2015

---

\sBrian C. Schneider  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin \DIVISION OF HEARINGS AND APPEALS**

Brian Hayes, Administrator  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on March 11, 2015.

Division of Health Care Access and Accountability