



FH

[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DECISION

[REDACTED]

PRELIMINARY RECITALS

Pursuant to a petition filed February 20, 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 skilled nursing services, a hearing was held on April 14, 2015, by telephone. A hearing set for March 18, 2015 was rescheduled at the petitioner's request.

The issue for determination is whether the DHCAA correctly modified a request for home nursing services based upon a failure to show medical need.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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Respondent:

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

By: Written submission of Sharon Beck, Nurse Consultant

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County who receives MA.
2. Petitioner has quadriplegia and requires regular home health care. On November 5, 2014, Quality Assurance Homehealth requested prior authorization for 35 hours per week personal care worker (PCW) services along with 7 hours per week skilled nursing visits with a start date of November 8, 2014, PA no. [REDACTED]. By a letter dated February 2, 2015, the DHCAA granted the requested PCW hours but modified the request for skilled nursing visits to six visits as needed.

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3. In the fall, 2014, petitioner had a pressure ulcer on his left ankle. The doctor ordered dressing changes every other day using clean technique. Petitioner's PCW was trained in performing wound care.
 4. The wound was healed and care ceased on December 30, 2014.

DISCUSSION

In reviewing a PA request the DHCAA must consider the general PA criteria found in the Wisconsin Administrative Code, §DHS 107.02(3) and the definition of "medical necessity" found at §DHS 101.03(96m). §DHS 101.03(96m) defines medical necessity in the following pertinent provisions:

"Medically necessary" means a medical assistance service under ch. DHS 107 that is:

- (a) Required to prevent, identify or treat a recipient's illness, injury, or disability; and
- (b) Meets the following standards:
 1. Is consistent with the recipient's symptoms or with prevention, diagnosis or treatment of the recipient's illness, injury or disability; ...
 3. Is appropriate with regard to generally accepted standards of medical practice; ...
 6. Is not duplicative with respect to other services being provided to the recipient;
 8. ...[I]s cost effective compared to an alternative medically necessary service which is reasonably accessible to the recipient; and ...
 9. Is the most appropriate supply or level of service that can safely and effectively be provided to the recipient.

Skilled nursing services are defined in the Administrative Code, §DHS 107.11(2)(a) as "services provides in a recipient's home under a plan of care which requires less than 8 hours of skilled nursing care per calendar day and specifies a level of care which the nurse is qualified to provide." The services must be pursuant to a physician's orders and require the skills of a registered nurse. See also Wis. Admin. Code, §DHS 101.03(163).

The Department's Personal Care Handbook defines wound care involving sterile technique as a skilled nursing task, but clean technique wound care can be completed by a nurse, home health aide, or PCW. See OIG case summary dated March 5, 2014, page 4. Wound care is a service that a nurse can designate to a PCW.

Petitioner's nurse testified that the care of the wound was more complex than usual, and that is why a nurse was required. However, the doctor's note for treatment of the pressure ulcer was to "cleanse wound, apply nickel thick layer of santyl to wound bed," and then to apply a bandage. See 9/16/14 office visit note, Attachment 2 to the OIG summary. That does not strike me as being overly complex or out of the realm of a PCW's skills. The note from the nurse to the DHCAA says that a nurse is desired because the petitioner and the PCW would prefer the nurse, but their preferences do not make it medically necessary to have the nurse provide the care.

The signed physician order in the PA request, although calling for daily nursing care of the wound, says that the provider should "cleanse [the wound] with normal saline f/b pat dry d/b wound gel to wound bed f/b cover with mepilex dressing." It then says the nurse should perform a skilled assessment of the wound and to measure it weekly. There is no reason why the PCW could not perform the regular cleansing and bandaging, with the nurse periodically assessing the progress. That is precisely what the DHCAA approved.

I conclude that the DHCAA's modification was justified.

CONCLUSIONS OF LAW

The DHCAA was justified in modifying a request for daily skilled nursing to treat a pressure ulcer on petitioner's ankle to six visits to monitor the progress of the wound's healing; the daily care of the wound could be done by a PCW.

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.

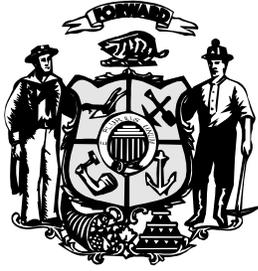
APPEAL TO COURT

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 22nd day of April, 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 April 22, 2015.

Division of Health Care Access and Accountability