



FH

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/164623

PRELIMINARY RECITALS

Pursuant to a petition filed March 11, 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 April 09, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether the Department correctly denied an amendment request for Personal Care Worker (PCW) services that increased the PCW time from 7.25 hours per week to 17.5 hours per week.

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: Kelly Townsend, RN

Division of Health Care Access and Accountability
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner is a resident of Milwaukee County.

2. On December 18, 2014 the petitioner's provider, Metro Home Health Services Inc. completed a Personal Care Screening Tool (PCST). The PCST estimated that the petitioner needed 29 units or 7.25 hours of PCW time per week.
3. The Department approved 7.25 hours per week of PCW time. This approval is consistent with previous approvals for 7.25 hours per week of PCW time.
4. On February 16, 2015 the petitioner's provider, Metro Home Health Services Inc., submitted a prior authorization amendment request asking for 17.5 hours per week of PCW time. The provider stated that they requested this additional time because "MD/client requesting increase in PCW hours."
5. On March 4, 2015 the Department sent a petitioner a notice stating that they were denying the requested increase in PCW hours.
6. On March 13, 2015 the Division of Hearings and Appeals received the petitioner's request for fair hearing.
7. The petitioner is a 26-year-old man diagnosed with Paranoid Schizophrenia. He has comorbidities of not otherwise specified anxiety and low back pain. He lives with family, and his mother is his PCW.

DISCUSSION

Personal Care Services are a covered service by Medicaid. They are defined as, "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. These services shall be provided upon written orders of a physician by a provider certified under s. DHS 105.17 and by a personal care worker employed by the provider or under contract to the provider who is supervised by a registered nurse according to a written plan of care." *Wis. Admin. Code DHS §107.112(1)(a)*.

Prior authorization is required for personal care services in excess of 250 hours per calendar year and for home health services covered under Wis. Admin. Code DHS §107.11(2), that are needed to treat a recipient's medical condition or to maintain a recipient's health. *Wis. Admin. Code DHS §107.112(b)*

The Department of Health Services requires prior authorization of certain services to:

1. Safeguard against unnecessary or inappropriate care and services;
2. Safeguard against excess payments;
3. Assess the quality and timeliness of services;
4. Determine if less expensive alternative care, services or supplies are usable;
5. Promote the most effective and appropriate use of available services and facilities; and
6. Curtail misutilization practices of providers and recipients.

Wis. Admin. Code § DHS107.02(3)(b)

"In determining whether to approve or disapprove a request for prior authorization, the department shall consider:

1. The medical necessity of the service;
2. The appropriateness of the service;
3. The cost of the service;
4. The frequency of furnishing the service;
5. The quality and timeliness of the service;
6. The extent to which less expensive alternative services are available;
7. The effective and appropriate use of available services;
8. The misutilization practices of providers and recipients;

9. The limitations imposed by pertinent federal or state statutes, rules, regulations or interpretations, including Medicare, or private insurance guidelines;
10. The need to ensure that there is closer professional scrutiny for care which is of unacceptable quality;
11. The flagrant or continuing disregard of established state and federal policies, standards, fees or procedures; and
12. The professional acceptability of unproven or experimental care, as determined by consultants to the department.”

Wis. Admin. Code §DHS107.02(3)(e)

“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;
 2. Is provided consistent with standards of acceptable quality of care applicable to the type of service, the type of provider, and the setting in which the service is provided;
 3. Is appropriate with regard to generally accepted standards of medical practice;
 4. Is not medically contraindicated with regard to the recipient's diagnoses, the recipient's symptoms or other medically necessary services being provided to the recipient;
 5. Is of proven medical value or usefulness and, consistent with s. DHS 107.035, is not experimental in nature;
 6. Is not duplicative with respect to other services being provided to the recipient;
 7. Is not solely for the convenience of the recipient, the recipient's family, or a provider;
 8. With respect to prior authorization of a service and to other prospective coverage determinations made by the department, is 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.

Wis. Adm. Code. §DHS 101.03(96m)

Petitioner has the burden to prove, by a preponderance of the credible evidence, that the requested services meet the approval criteria.

Metro Home Health Services, Inc. originally requested 7.25 hours of PCW time per week. The Department approved this request. This request is consistent with previous prior authorization requests for PCW services, which were also approved. After submitting this request, Metro Home Health Services, Inc. submitted a prior authorization amendment request asking for 17.5 hours per week of PCW time because “MD/client requesting increase in PCW hours.” At the hearing the petitioner requested 3 hours per day of PCW services.

In determining how many hours of personal care services an individual is allowed, a service provider completes a personal care screening tool (PCST). A link to the blank form can be found in the on-line provider handbook located on the Forward Health website: <https://www.forwardhealth.wi.gov/WIPortal>, under topic number 3165. The responses are then entered into a web-based PCST, which cross references the information with the Personal Care Activity Time Allocation Table.

The Personal Care Activity Time Allocation Table is a guideline showing the maximum allowable time for each activity. *On-Line Provider Handbook Topic #3165*; this chart can also be found at the aforementioned website.

In general seven activities of daily living (ADLs) are reviewed: 1) Bathing, 2) Dressing, 3) Grooming, 4) Eating, 5) Mobility, 6) Toileting, and 7) Transfers. In addition, Medically Oriented Tasks (MOTs), such as glucometer readings or medication assistance, are also examined.

In this case the PCST assessed the petitioner's need for PCW services at 7.25 hours per week. That amount of time was requested and approved. After that approval the petitioner and his doctor sought 2.5 hours of PCW time per day. This is a total of 17.5 hours per week. The petitioner's psychiatrist wrote a short letter stating he was recommending "two and a half hours daily, six days per week. PCW to assist with bathing, dressing, grooming, meal prep/assist, laundry, light housekeeping, medication reminder/prep, and toileting." He went on to recommend an additional one hour per week for assistance with grocery and clothing shopping, and three hours per month for driving to Dr. appointment.

The burden is on the petitioner to show that he needs this additional time. The doctor's letter is not enough to meet this burden. The doctor's letter is a blanket statement with no explanation. The doctor does not explain what prevents the petitioner from completing these activities of daily living. The nurse consultant is correct that driving the petitioner to doctor appointments is not a covered PCW service. The PCST, on the other hand, is completed by a nurse who assesses the petitioner's needs within his home. It states with specificity the assistance that the petitioner's requires with respect to each ADL and MOT. It further states why the petitioner does not need assistance in other areas. Given the detail and specificity in the PCST, a doctor's assertion that the petitioner needs additional PCW time with no explanation is not enough to sustain the petitioner's burden. The nurse consultant with DHS also agreed with the PCST assessment.

I further note that I found the petitioner's testimony largely self-serving and not credible. At the hearing the petitioner wanted three hours per day instead of 2.5 hours per day. The petitioner was unable to provide a detailed and specific explanation of why he needed this additional time with respect to each ADL. The petitioner like his doctor could only provide blanket assertions, which are not enough to overcome a PCST that is filled out and completed over several hours in a very thorough and detailed manner.

CONCLUSIONS OF LAW

The Department correctly denied the February 16, 2015 prior authorization amendment request asking for 17.5 hours per week of PCW time.

THEREFORE, it is

ORDERED

That the petition 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 Milwaukee,
Wisconsin, this 7th day of May, 2015

\sCorinne Balter
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 May 7, 2015.

Division of Health Care Access and Accountability