



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[Redacted]

DECISION

MPA/165062

PRELIMINARY RECITALS

Pursuant to a petition filed March 31, 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 23, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly modified the Petitioner’s request for personal care worker (PCW) services.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[Redacted]

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Respondent:

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

By: Cindy Zander

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

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Milwaukee County. He lives with his caregiver.

2. Petitioner's diagnoses include diabetes, memory loss, CVA, and prostatic disorder. His functional limitations include incontinence, contractures, endurance, ambulation and speech. He suffers from joint and back pain. He uses a cane for ambulation. He wears a right leg brace and wrist brace.
3. On December 19, 2014, a Personal Care Screening Tool (PCST) was completed. The assessor determined the Petitioner has the following needs:
 - Bathing – Level D – Petitioner has CVA with R side hemiparesis. No use of R side. Requires assistance getting in and out of shower and assistance with washing.
 - Dressing – upper and lower – Level D – R side hemiparesis. Requires assistance with dressing upper and lower body including pants, shirts, socks and shoes.
 - Brace – requires assistance with application and removal of leg brace.
 - Grooming – Level E – R side hemiparesis. Requires assistance with grooming including shaving.
 - Eating – Level C – requires assistance with setting up during meals.
 - Mobility – Level D – gait very unsteady. Uses quad cane for short distance and hemi walker. Has R leg brace.
 - Toileting – Level C – requires assistance with adjusting clothes and making sure properly cleansed after using toilet.
 - Transfers – Level D – gait unsteady. Uses quad cane for short distance and hemi walker. Requires assistance with transferring.
 - Medication Assistance – Level B – needs reminders 3x/day.
 - Glucometer Readings – 3x/day

The assessor noted that the Petitioner's memory deficits create difficulties for Petitioner in completing ADLs.
4. On December 24, 2014, the Petitioner's provider submitted a Prior Authorization (PA) request to the agency requesting 32.25 hours/week of PCW services for the Petitioner.
5. On February 19, 2015, the agency issued a notice to the Petitioner that it had approved 23.25 hours/week of PCW services.
6. On March 31, 2015, the Petitioner filed an appeal with the Division of Hearings and Appeals.

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 for a person living alone, and one-fourth of their time for a person living with others. 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 agency approved the maximum time generally allowed for bathing (210 minutes/week), dressing (140 minutes/week), grooming (210 minutes/week), mobility (140 minutes/week) and transfers (210 minutes/week). The agency also approved 210 minutes/week for toileting. The agency did not approve any time for brace application/removal, eating and medication assistance.

With regard to toileting, the agency allowed 30 minutes/day based on the PCST report that he requires assistance 3x/day with getting on and off the toilet as well as for cleansing. I conclude that 30 minutes/day for this task is reasonable and consistent with the evidence.

The agency did not approve time for brace/application/removal due to no physician's order being presented with the PA. Time can be allowed for this task if the Petitioner or provider produce a physician's order for the R leg brace and/or R wrist brace.

With regard to eating, the agency did not approve any time as the PCST indicates that the Petitioner is able to feed himself. The Petitioner testified at the hearing that he can hold utensils and feed himself. The agency accepted that the Petitioner requires help with meal preparation. This time for meal preparation, including cutting and preparing food, is included in services incidental to tasks (SITs).

For medication assistance, the PCST indicates that the Petitioner needs reminders 3x/day. The agency notes that its policies do not allow time just for medication reminders.

With regard to glucometer readings, the plan of care does not include any physician orders to have the PCW monitor glucometer readings. At the hearing, the Petitioner testified that he is able to do the readings himself.

Based on the evidence presented at the hearing, I conclude that the agency's modification of the requested PCW services was reasonable and consistent with the evidence. The agency properly modified the PA request to allow 23.25 hours/week of PCW services for the Petitioner.

CONCLUSIONS OF LAW

The agency properly modified the PA request to allow 23.25 hours/week of PCW services for the Petitioner.

THEREFORE, it is

ORDERED

That 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 Milwaukee,
Wisconsin, this 18th day of June, 2015

\sDebra Bursinger
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 June 18, 2015.

Division of Health Care Access and Accountability