



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

Redacted case name

DECISION

MPA/166430

PRELIMINARY RECITALS

Pursuant to a petition filed June 1, 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 June 24, 2015, by telephone.

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

PARTIES IN INTEREST:

Petitioner:

Redacted petitioner name

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703
By: Written submission of Redacted Nurse Consultant

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # Redacted) is a 63-year-old resident of Milwaukee County who receives MA. He resides with his son and his son's girlfriend.
2. Petitioner's diagnoses are back pain, chronic obstructive pulmonary disease (COPD), and psychosis.
3. On March 27, 2015, Redacted requested authorization for 16.25 hours per week, PA no. Redacted. The DHCAA modified the request by a letter dated April 30, 2015 to seven hours per week, or one hour daily for bathing.

4. The DHCAA consultant reviewed a number of petitioner's medical records. Doctor's notes make no mention of back pain, and there are no pain relieving medications prescribed for petitioner. There is mention of numbness in petitioner's left leg that causes problems with activities of daily living (ADLs). Petitioner also saw an occupational therapist twice in late 2014/early 2015, with one meeting in petitioner's home. The therapist reported that petitioner is independent in dressing, mobility, grooming, toileting, and transfers. The therapist noted that petitioner needs assistance with bathing.
5. The consultant approved one hour per day for bathing, which would encompass grooming and dressing.

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.

It is evident that the screening tool submitted by Redact paints a worse picture of petitioner's capabilities than the medical notes. The occupational therapist reports petitioner to be independent with almost all ADLs, and the doctor's notes include nothing that would contradict the therapist's report. Petitioner complained that the therapist saw him only for about 20 minutes each time, but that does not strike me as an unusually short duration for such an evaluation, particularly in light of the doctor's notes noting no particular physical impairment other than in petitioner's leg.

I conclude that the DHCAA's reduction was appropriate. Petitioner mentioned that he is seeing a new therapist. If the new therapist reports petitioner's capabilities to be worse than the prior therapist, the provider can always request an amendment to the currently approved seven hours per week. At this point,

I must accept the medical records offered by petitioner's medical providers, and based on those records the DHCAA reduction was correct.

CONCLUSIONS OF LAW

The DHCAA correctly reduced the requested PCW hours because petitioner's medical records show him to be independent in ADLs except for bathing.

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 26th day of June, 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 June 26, 2015.

Division of Health Care Access and Accountability