



STATE OF WISCONSIN  
Division of Hearings and Appeals

In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MPA/168865

**PRELIMINARY RECITALS**

Pursuant to a petition filed September 18, 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 (DHCAA or Division) in regard to Medical Assistance (MA), a hearing was held on November 5, 2015, by telephone.

The issue for determination is whether the Division correctly approved a prior authorization request for Personal Care Worker (PCW) services at the level of 25 hours per week.

There appeared at that time the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[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 [REDACTED], 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:**

Nancy J. Gagnon  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is a resident of Adams County. She is certified for MA.
2. In August 2015, a prior authorization request (#... 177) was submitted on the petitioner's behalf for 25.0 hours weekly of PCW services, beginning September 8, 2015. On August 20, 2015, the

Division issued written notice that it was approving the entire request by approving PCW time of 25.0 hours weekly.

3. The Division has not denied any PCW hours requested by the service provider. The Division cannot authorize more hours than what a provider has requested, as the provider is making a representation that 25 hours weekly is what is medically necessary for this patient.
4. The petitioner, age 52, resides with her mother in the community. The petitioner has diagnoses of cerebral palsy and fibromyalgia.
5. A state Personal Care Screening Tool (PCST) review was performed by a nurse for the petitioner on July 27, 2015. The PCST program concluded that the petitioner requires 25.0 hours of PCW care weekly. The PCST results declared that the petitioner required PCW physical assistance with bathing daily, dressing twice daily, grooming twice daily, incontinence care six times daily, transfers, and ambulation. She feeds herself. The petitioner takes medications with the assistance of a non-PCW.

### DISCUSSION

Personal care worker service (PCW), as defined at Wis. Admin. Code §DHS 107.112(1), is an MA-covered service, subject to prior authorization after the first 250 hours per calendar year. Wis. Admin. Code §DHS 107.112(2) (May 2009). In determining whether to approve such a service request, the Division employs the generic prior authorization criteria found at §DHS 107.02(3)(e). Those criteria include the requirements that a service be a medical necessity, appropriate, and an effective use of available services. *Id.* The Division argues that it has approved all of the care requested by the PCW provider, so there is no quarrel between the Division/MA program and the petitioner. There may be a difference of opinion between the petitioner and her provider. The petitioner bears the burden of establishing, by a preponderance of the credible evidence, that additional care is needed.

The state code does restrict MA-covered PCW tasks as follows:

(b) Covered personal care services are:

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(2)(b). For tasks #1 through #4, #6, #8, #9, and #12, the Division's medical professionals have calculated typical task performance times, and placed them in a policy reference document, *Personal Care Activity Time Allocation Table*. Task performance times from the *Table* will be referenced below.

The Department approved its maximum standard time amounts for the tasks of bathing, dressing, grooming, incontinence care per episode, mobility and transfers for this case. The Division's policy standard is to then add no more than 25% of the ADL time to the authorization for services incidental to ADLs where a live-in caregiver is present. That occurred here.

The overriding problem for the petitioner in this case is that her provider requested 25 hours weekly, and the MA program authorized that amount. The MA program does not authorize more service than what the provider requested. When the petitioner was asked by this Judge if she had spoken to the provider, the petitioner responded that she had done so, but that she did not understand the provider's answer. She also alluded to receiving nearly double the currently amount of PCW care in the past. However, documentation supporting that assertion and the possible reason for that very high level of care (e.g., freshly discharged from a hospital?) are not in this hearing record.

### **CONCLUSIONS OF LAW**

1. The Division correctly authorized all of the PCW time, 25 hours weekly, requested on the prior authorization form submitted by the service provider.

**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**

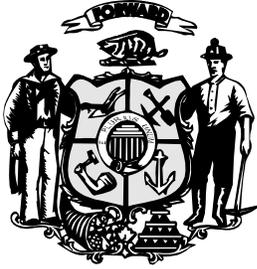
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those 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 Madison,  
Wisconsin, this 10th day of November, 2015

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\sNancy J. Gagnon  
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 November 10, 2015.

Division of Health Care Access and Accountability