



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

[REDACTED]

PRELIMINARY RECITALS

Pursuant to a petition filed September 18, 2015, under Wis. Stat., §49.45(5), to review a decision by the Division of Health Care Access and Accountability (DHCAA) to discontinue a Medical Assistance (MA) authorization for personal care worker (PCW) services, a hearing was held on October 13, 2015, by telephone.

The issue for determination is whether the agency correctly discontinued petitioner's PCW services based upon a review of his medical records.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

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 is a resident of Milwaukee County who receives MA.
2. Petitioner is 43 years old. His home health agency shows diagnoses of diabetes and disc displacement, with limitations in endurance, strength, and dyspnea with minimal exertion.
3. On March 10, 2015, Independence First requested authorization for 24.5 hours per week PCW services, PA no. [REDACTED]. The authorization would be for one year. The DHCAA granted the request.

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4. On June 8, 2015, the provider requested an amendment to the PA request seeking travel time. At that point the file was forwarded to a Department consultant who reviewed the request more thoroughly, primarily reviewing recent medical records. Eventually, by a letter dated August 5, 2015, the DHCAA granted the travel time, but amended the end date for the services to September 5, 2015, concluding that petitioner does not actually need PCW services.
 5. The Personal Care Screening Tool filled out by Independence First states that petitioner has a history of a herniated disc with pinched nerves, constant numbness in his extremities, difficulty grasping objects, poor balance, and shortness of breath. Petitioner's medical records do not support those diagnoses. Mention is made of a history of lumbar stenosis but not of a herniated disc. No mention is made of numbness, poor balance, or shortness of breath. Petitioner's cardiac and respiratory findings are unremarkable, according to his most recent medical check-up. Petitioner takes no prescribed pain medication.

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.

As noted in the findings, in this case the DHCAA decided to review petitioner's file more closely after the amendment for travel time was filed. It was found that petitioner's medical records do not match with the diagnoses in the Personal Care Screening Tool. No mention is made of numbness, severe back pain (although mild stenosis is noted), shortness of breath, or poor balance. Petitioner testified that he does indeed have numbness, but his testimony cannot be verified. Furthermore, numbness alone would not prevent a person from performing activities of daily living. Petitioner testified that his major problem is lack of sleep, and he has trouble focusing in the morning. Such a lack of focus should cause petitioner to take more time to do his own cares, but it is not a reason to pay for a caregiver.

At this point I will affirm the DHCAA action to discontinue the PCW services. Petitioner can always seek a new authorization if his medical doctor will provide verification of the ailments stated in the Screening Tool that warranted the initial approval.

[REDACTED]

CONCLUSIONS OF LAW

The DHCAA correctly discontinued PCW services because petitioner's medical records do not verify a need for PCW assistance.

THEREFORE, it is **ORDERED**

That the petition for review 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 20th day of October, 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 October 20, 2015.

Division of Health Care Access and Accountability