



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/168878

PRELIMINARY RECITALS

Pursuant to a petition filed September 21, 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 telephone hearing was held on November 10, 2015.

The issue for determination is whether the respondent correctly modified petitioner's request for personal care worker (PCW) services.

There appeared at that time 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: [REDACTED] RN, BSN
Division of Health Care Access and Accountability
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a 59-year-old resident of Milwaukee County.
2. Petitioner requires assistance with activities of daily living (ADLs), and has been diagnosed with diabetes, generalized muscle weakness, abnormal weight loss, arthritis, and chronic pain.

3. On June 11, 2015, ██████████ requested authorization for 20.5 hours per week PCW services, 24 hours per year PCW services on an as-needed basis, and 7 hours per week travel time, PA no. ██████████. By a letter dated August 6, 2015, the respondent granted 8.75 hours per week (travel time was approved as requested; additional “as-needed” time was denied).
4. The respondent granted daily time for bathing, dressing, and grooming. Additionally 105 minutes per week was given for incidental services.

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. At hearing on the issue of modification of a PA request, it is the burden of petitioner or the provider to establish the need and appropriateness of the requested services. Petitioner has done neither based on this record.

The DHCAA approved 8.75 hours of PCW services each week for the petitioner. To reach this figure the DHCAA initially used the 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. The DHCAA then adjusted the tool’s results based upon Department maximum time allowances and considerations of petitioner’s medical records.

The reason that the DHCAA now is looking closely at PCW requests is evident in a case such as this one. Petitioner did not provide specific times necessary for providing the PCW services, but instead testified that more time was needed than approved because of petitioner’s needs for assistance with meal preparation, laundry, cleaning, laundry and grocery services. Such supportive home cares are considered

incidental services, which fall outside of the parameters of PCW services.¹ Petitioner did not quantify which of the PCW services were incorrectly assessed by the respondent, nor did he identify the amount(s) of additional time would be needed to address his PCW, as opposed to supportive home care, needs. Without a better way to quantify the time for actual PCW services, I find it difficult to add more time.

Petitioner should be aware that if his provider can show a medical need for more PCW time, as opposed to supportive home care time, it can always request an amendment for additional time with evidence to show the need for the additional time. However, based upon the evidence before me I cannot conclude that the PCW time modification was wrong.

CONCLUSIONS OF LAW

The DHCAA's modification of the request for PCW hours was appropriate based upon petitioner's medical needs and the Department's policies for PCW approval.

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).

¹Time calculated for services incidental to tasks for members not residing alone is equal to ¼ of the time allocated for ADL and medically oriented services. See, Exhibit 3, attachment 12.

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 15th day of January, 2016

\sPeter McCombs
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on January 15, 2016.

Division of Health Care Access and Accountability