



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

██████████
██████████
██████████
██████████

DECISION

MPA/171788

PRELIMINARY RECITALS

Pursuant to a petition filed January 29, 2016, under Wis. Stat., §49.45(5), to review a decision by the Division of Health Care Access and Accountability (DHCAA) to deny Medical Assistance (MA) authorization for personal care worker (PCW) services, a hearing was held on February 24, 2016, at Madison, Wisconsin, with the parties appearing by telephone.

The issue for determination is whether the DHCAA correctly denied authorization for PCW services based upon petitioner's medical records.

PARTIES IN INTEREST:

Petitioner:

██████████
██████████
██████████
██████████

Respondent:

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

By: Written submission of ██████████, Nurse Consultant

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a 58-year-old resident of Milwaukee County who receives MA.
2. On November 12, 2015 ██████████ ██████████ ██████████ requested authorization for 15.5 hours PCW services, PA no. ██████████. By a letter dated December 21, 2015 the DHCAA denied the request.
3. The request noted diagnoses of left hip osteoarthritis and thoracolumbar disc degeneration.
4. The DHCAA reviewed petitioner's medical records. Doctor notes from October, 2015 reported no remarkable findings, with emphasis on petitioner's pulmonary issues. The DHCAA also

reviewed physical therapy notes from the summer, 2015. Ranges of motion were noted to be within the normal functional range, and the primary focus of the therapy appeared to be on reaching for things about petitioner's head due to shoulder pain.

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.

I note here that a recent fair hearing decision in case no. MPA-169919 concluded that petitioner required 8 hours per week PCW services. That hearing and decision concerned an August, 2015 PCW prior authorization request by a different provider, [REDACTED]. The hearing was held and the decision was written after [REDACTED] filed the request at issue in this case. Apparently petitioner ended her relationship with [REDACTED], necessitating a need for an authorization request from her new provider. Petitioner went ahead with the hearing in MPA-169919 without realizing that the hearing could only address the [REDACTED] request, not the [REDACTED] request.

I conclude that the denial of the PCW services in this case was correct. As noted, medical records do not support a need for PCW services as petitioner's only noted deficit is in reaching for items high above her head. Petitioner testified about the pain she experiences, but pain descriptions are largely subjective. Petitioner also presented a February 3, 2016 medical note from her pain doctor. Although the doctor prescribes PCW services, a review of the objective findings concerning strength and range of motion again show petitioner to be within the normal range for both (upper extremity strength measurements are all 5/5, meaning normal strength).

Based on these findings the need for PCW services is not evident. Petitioner testified that she was hospitalized in January following a fall, but there are no medical notes from the hospitalization, which of course occurred after this authorization request was filed. The fall occurred before the February 3 medical note described above, so I cannot make a finding that the fall necessitated PCW assistance. If there has been a change since the November, 2015 filing date, a new prior authorization request can be filed.

CONCLUSIONS OF LAW

The DHCAA correctly denied PCW services as requested for petitioner because medical records do not support the need for hands on 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 1st day of March, 2016

\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 March 1, 2016.

Division of Health Care Access and Accountability