



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
c/o [REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/172362

PRELIMINARY RECITALS

Pursuant to a petition filed February 23, 2016, 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 April 13, 2016, at Madison, Wisconsin, with the parties appearing by telephone.

The issue for determination is whether the DHCAA correctly determined PCW hours.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
c/o [REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Written submission of [REDACTED] [REDACTED], Nurse Consultant

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a 7-year-old resident of Dane County who receives MA.
2. Petitioner has autism with bowel/bladder incontinence, with limitations in speech. He has been receiving PCW services through the MA program. The program recently has reviewed prior authorization requests more closely than in the past.
3. On January 6, 2016, SoSiab Care, Inc. requested prior authorization (PA) for 33.75 hours per week PCW services, PA no. [REDACTED]. By a letter dated February 1, 2016, the DHCAA

modified the request to approve 15.75 hours per week. Additional hours for an “as-needed” basis were approved as requested.

4. Petitioner lives with family and attends school five days per week. He requires complete assistance for bathing, dressing, and grooming. He is able to move about but requires supervision. He feeds himself but requires supervision. He requires assistance with toileting and incontinence care.
5. The DHCAA granted maximum weekly time for bathing, dressing, and grooming. Toileting and incontinence care were reduced from the requested amount because petitioner is not home daily, he is receiving toileting training through his in-home autism services, and because family members are expected to help with cares of a child when they are available. He was allotted no time for eating, mobility, or transfers. He also was allotted no time for services incidental to tasks because his brother receives those services and they would duplicate if petitioner also received them.

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. The Department also now uses a Personal Care Activity Time Allocation Table to determine allotted times for PCW tasks, which the DHCAA follows unless the request explains specifically why additional time is necessary. The Table is found as Attachment 6 to Nurse Consultant [REDACTED]’s March 17, 2016 case summary.

Major differences between the request for time and the DHCAA modification are in eating, mobility, and transfers. The PA request included PCW time for those areas. However, as noted by Nurse Consultant

██████████ in his case summary, supervision is not a basis for granting PCW time. PCW time is based on actual, hands-on assistance. See Personal Care Screening Tool instructions, found at Nurse Consultant ██████████'s March 29, 2016 case summary, Attachment 7, page 2.

The Personal Care screener noted that petitioner needs total assistance with feeding, but other reports from his mother and teacher are that he feeds himself and drinks from a cup using a straw. Petitioner's father testified that he has to be watched all the time because he will spill and drop food on the table and on the ground, but again, that is supervision, not hands-on assistance.

The other big difference is in services incidental to tasks. Such services include cleaning, laundry, meal preparation, and travel time. Because petitioner's older brother already is authorized for those services it would be duplicative for petitioner to be authorized for the same services. Furthermore, it is evident from both school and autism program records that petitioner is higher functioning than his brother and thus is in need of less hands-on assistance.

I conclude that the modification to the request for PCW time for petitioner was justified by the DHCAA. Petitioner's father testified that petitioner required full time care, but there is a difference between general care and hands-on PCW services. The DHCAA determined the need for hands-on care appropriately.

CONCLUSIONS OF LAW

The DHCAA correctly determined the amount of PCW hours needed for petitioner on a weekly basis.

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 18th day of April, 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 April 18, 2016.

Division of Health Care Access and Accountability