



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

MPA/173942

PRELIMINARY RECITALS

Pursuant to a petition filed April 28, 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 June 1, 2016, at Milwaukee, Wisconsin, with the parties appearing by telephone.

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

PARTIES IN INTEREST:

Petitioner:



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 (CARES # [Redacted]) is a resident of Milwaukee County who receives MA.
2. Petitioner has been receiving PCW services through MA for some time. On February 2, 2016, Faith Family Services, Inc. requested authorization for 25.75 weekly PCW hours, PA no. [Redacted]. The DHCAA reviewed the request along with petitioner's recent medical records and by a notice dated April 1, 2016 approved 11.75 hours per week.
3. Petitioner's diagnoses include renal failure, low back pain, and hypertension. She has episodes of incontinence. She is able to transfer and move about but likes to have supervision in case she gets disoriented.

4. The DHCAA approved maximum daily time for bathing, dressing, grooming, and toileting, along with additional time for services incidental to the tasks (which include cleaning, shopping, cooking, and laundry).

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 7 to Nurse Consultant Golden’s May 17, 2016 case summary.

The primary reason for the reduction in approved hours is the elimination of time allowed for mobility and transfers. The screener noted that petitioner needs supervision for mobility, but supervision is not a basis for PCW services; there must be hands on service provided. The screener also noted that petitioner needs hands on assistance with transfers, but medical records reviewed by the DHCAA do not support such a high level of assistance. Petitioner has durable medical equipment to help her.

When I asked petitioner and her daughter, who is petitioner’s primary caretaker, to describe the services provided, they both focused exclusively on incidental services like cleaning, preparing meals, and laundry. No mention was made of helping petitioner transfer or move about her home.

I conclude that the reduction in approved hours was appropriate. PCW time was granted for the hands-on assistance that petitioner actually needs. However, I note to petitioner that if the approved time truly is

insufficient, Faith Family Services can always request an amendment to the authorization with an explanation of why additional time is necessary.

CONCLUSIONS OF LAW

The DHCAA correctly determined the number of weekly PCW hours needed by petitioner after reviewing the February 2, 2016 prior authorization request.

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 7th day of June, 2016

\sBrian C. Schneider
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 June 7, 2016.

Division of Health Care Access and Accountability