



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: MPA - 174256

PRELIMINARY RECITALS

Pursuant to a petition filed on May 12, 2016, 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 regarding Medical Assistance (MA), a hearing was held on June 29, 2016, by telephone from Madison, Wisconsin. The record was held open for a period of 10 days to allow petitioner to provide physician orders for the use of a Vagal Nerve Stimulator magnet. The orders were timely received.

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

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Petitioner's Representative:

[REDACTED]
Accura Home Health Inc
2727 S Kemp Rd
Avalon, WI 53505

Respondent:

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

By: [REDACTED] RN, BSN
Division of Health Care Access and Accountability
PO Box 309
Madison, WI 53701-0309

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Rock County. She is 17 years old and certified for MA. She lives at home with her family.
2. Petitioner has a permanent, chronic medical condition that affects her functional and cognitive status and contributes to her difficulty with completing Activities of Daily Living (ADL's). Petitioner suffers daily and nightly seizures.
3. Severe seizures lead to almost complete incapacity the following day.
4. Petitioner needs assistance with bathing, dressing upper and lower body, grooming, eating, mobility, toileting, medically oriented tasks, delegated nursing tasks, and seizure cares.
5. On February 19, 2016, Accura Home Health, Inc., requested prior authorization (PA # [REDACTED]) on petitioner's behalf for 22.5 hours per week PCW services, and 7 hours per week for PCW travel time. By a notice dated February 25, 2016, the respondent modified the PA request and granted 18.75 hours per week PCW services, and 7 hours per week for PCW travel time.

DISCUSSION

MA coverage of PCW services is described in the Wis. Adm. Code, §DHS 107.112. Covered services are specified in subsection (1), and are defined generally as "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." Examples of covered services are assistance with bathing, with getting in and out of bed, with mobility and ambulating, with dressing and undressing, and meal preparation. The Code also provides that, "No more than one-third of the time spent by a personal care worker may be in performing housekeeping activities." Wis. Adm. Code, §DHS 107.112(3)(e).

In determining the number of PCW hours to authorize, the OIG uses the standard above along with the general medical necessity standard found at Wis. Adm. Code, §DHS 101.03(96m). Essentially the medical necessity standard requires a service to be basic and necessary for treatment of an illness, not necessarily the best service possible, and not just for convenience. To determine the number of PCW hours to authorize the OIG uses the Personal Care Screening Tool (PCST), a computer program it believes will allow it to consistently determine the number of hours required by each recipient. The PCST allots a specific amount of time in each area the recipient requires help, which the OIG's reviewer can then adjust to account for variables missing from the screening tool's calculations.

In this case the respondent wrote that it had modified the PA request regarding dressing (reduced the requested time), mobility (added additional time), and delegated nursing tasks (eliminated the time allotment). In response, the petitioner's representatives testified regarding dressing petitioner, indicating that dressing takes 30 to 45 minutes daily due to petitioner's increasingly impulsive and aggressive behaviors. The respondent had allotted 100 minutes per week. As to the issue of delegated nursing tasks, that had been eliminated by the respondent, who cited a lack of physician's orders. Post hearing, the respondent supplied the physician orders for this task.

In reviewing the PCST as completed by the provider, I can see how the OIG awarded what it did, and technically I am reviewing their determination. However, at hearing the type of assistance required for each of his ADLs was reviewed through the testimony of her mother and a registered nurse, both of whom have provided PCW services over the last several years for the petitioner. The petitioner has provided ample evidence of the need for the requested 22.5 hours of PCW services.

I note that petitioner's provider will not receive a copy of this Decision. In order to have the service requested here approved, the petitioner must provide a copy of this Decision to Independence First. The provider must then submit a *new* prior authorization request to receive the approved coverage.

CONCLUSIONS OF LAW

The petitioner requires 22.5 hours of PCW time weekly under PA [REDACTED]

THEREFORE, it is ORDERED

That Accura Home Health, Inc., is hereby authorized to provide the petitioner with 22.5 hours weekly of PCW services and to submit its claim, along with new prior authorization request, together with a copy of this Decision, to ForwardHealth for payment.

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, **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 9th day of August, 2016

\s _____
Peter 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 August 9, 2016.

Division of Health Care Access and Accountability

