



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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

REHEARING DECISION
Case #: MPA - 174445

PRELIMINARY RECITALS

Pursuant to a petition filed May 19, 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 July 5, 2016, by telephone. A decision was issued July 11, 2016 concluding that the appeal was untimely. Petitioner requested a rehearing, and on August 2, 2016 the judge granted the rehearing, concluding that the finding of untimeliness was incorrect based upon incorrect information provided to petitioner about the appeal process.

No issue remains for determination.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

;

Respondent:

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

By: Written submissions of [REDACTED], Nurse Consultant

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Dane County who receives MA.
2. Petitioner has a number of diagnoses that prevent her from providing for her own activities of daily living (ADLs). Diagnoses include multiple sclerosis, diabetes, chronic back pain, fibromyalgia, and torn left rotator cuff. Until the action at issue in this case petitioner received MA coverage for 8.25 hours per day PCW services.

3. On February 3, 2016 Dane County Dept. of Human Services requested authorization for 61.25 hours per week PCW services (8.75 hours per day) with a start date of March 31, 2016, PA no. [REDACTED]. The personal care screening tool submitted with the request called for 46.75 hours per week, but the provider requested additional hours in a Personal Care Addendum attached to the PA request.
4. The DHCAA granted 43.75 hours per week PCW services. In a notice to the provider the DHCAA noted that one reason for the reduction was that there were no medical orders for complex positioning; it suggested that the provider file an amendment if the orders were obtained. The amendment was filed March 28, 2016, and on April 22 the DHCAA approved the additional 3.5 hours per week for complex positioning, bringing up the total approved hours to 47.25 per week.
5. Following the granting of the rehearing, the DHCAA reviewed additional information provided by petitioner's doctor and agreed to increase PCW hours back to the requested 61.25.

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.

As noted in Finding of Fact no. 5, the DHCAA has reviewed petitioner's case again following the rehearing being granted, and it was determined that petitioner should receive the requested 61.25 hours. See August 4, 2016 letter from Nurse Thompson. The DHCAA already has amended the PA request retroactive to the start date, and thus I do not need to issue an additional order to do so. I will dismiss the appeal because it already has been decided in petitioner's favor.

Petitioner's provider should note that although it now can bill MA for services provided beyond the originally approved 47.25, it must have documentation to show that the additional services actually were provided during the period between the denial and the present.

CONCLUSIONS OF LAW

No issue remains for determination.

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, **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 8th day of August, 2016

\s _____
Brian 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 August 8, 2016.

Division of Health Care Access and Accountability