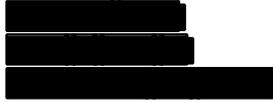




STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION
Case #: MPA - 175776

PRELIMINARY RECITALS

Pursuant to a petition filed July 21, 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 for personal care worker (PCW) services, a hearing was held on August 18, 2016, by telephone.

The issue for determination is whether the DHCAA correctly modified an authorization for PCW services.

PARTIES IN INTEREST:

Petitioner:



Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 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 52-year-old resident of Milwaukee County who receives MA.
2. Petitioner has a number of diagnoses including renal failure, hypertension, anemia, and immunodeficiency virus. He has bowel and bladder incontinence, lack of endurance, and shortness of breath.

3. On March 7, 2016, United Home Care filed a prior authorization request for 27.75 hours per week PCW services, PA no. [REDACTED]. On May 26 the provider amended the request to 23.5 hours per week. By a letter dated June 21, 2016, the DHCAA modified the request to grant 9.25 hours per week.
4. The agency granted maximum allowable time for bathing, dressing, and grooming. It did not allow time for eating because the personal care screen says that he needs supervision while eating, not that he actually requires hands-in assistance. The agency also granted no time for mobility, toileting, or transfers. A major reason for disallowing time for those functions is that petitioner is reported to live alone, and he would have to be able to do those things when the care worker was not present. The agency also allotted no time for medication assistance because petitioner's plan of care does not include orders for the PCW to administer medication.

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 8 to Nurse Consultant Derendinger's August 2, 2016 case summary.

Petitioner's PCW and the nurse assessor both testified during the hearing. The testified that petitioner requires virtually full-time care. I asked how petitioner did his care activities like toileting when the PCW was unavailable, and she responded that she does not leave petitioner alone. The testimony of both caregivers makes petitioner's condition appear much worse than the screening tool makes him appear.

The problem is that the agency makes the decision on the information provided. If petitioner does not actually live alone, the screen should say so to allow the nurse consultant an accurate portrait of his needs. Furthermore, the letter from petitioner's doctor presented for the hearing does not mention a need for assistance with toileting, ambulation, or transfers. It does mention a need for medication management, but I do not know if that need has been communicated to the DHCAA as part of petitioner's plan of care.

I am going to affirm the DHCAA modification to the PA request. While petitioner's condition might be worse than reported, the worsened condition has not been communicated to the DHCAA. Furthermore, the description that petitioner needs virtual full-time care is not evidenced in his doctor's August 19, 2016 letter. If the provider wants to advocate for more PCW hours, it should request an amendment to the authorization and include updated information on petitioner's living situation and care needs. Based on the information provided with the initial PCW request, the agency correctly modified it to the approved 9.25 hours weekly.

CONCLUSIONS OF LAW

The DHCAA correctly modified the prior authorization for PCW services based upon the information provided in the 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, **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 25th 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 25, 2016.

Division of Health Care Access and Accountability