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STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION
Case #: MPA - 207141

PRELIMINARY RECITALS

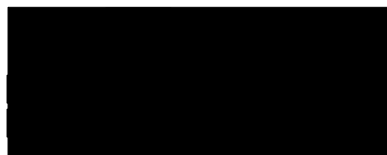
Pursuant to a petition filed on December 10, 2022, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Medicaid Services regarding Medical Assistance (MA), a hearing was held on February 8, 2023, by telephone.

The issue for determination is whether the agency correctly modified petitioner's prior authorization request for Personal Care Worker (PCW) services.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By:  (written appearance)

Division of Medicaid Services
PO Box 309
Madison, WI 53701-0309

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is an 81-year-old resident of Wood County.
2. Petitioner's diagnoses include right hemispheric (cortical) stroke, cerebrovascular accident with left lower extremity hemiparesis, bunion of the right foot, hypertension, and TIA (transient ischemic attack).
3. On October 12, 2022, the respondent received a prior authorization request form from Universal Home Health Care, submitted on petitioner's behalf. The petitioner requested 100 units/week of PCW time (25 hours/week or 3.57 hours/day). The requested start date was November 16, 2022.
4. On November 8, 2022, the agency approved, with modifications, petitioner's prior authorization request, approving 61 units/week (15.25 hours/week or 2.18 hours/day). The agency approved {CW time for bathing once daily (includes an episode of dressing), a second dressing episode of upper and lower body, grooming twice daily (20 minutes daily), toileting twice per day, bed transfers (15 minutes daily), and time for incidentals. Additionally, 96 PRN units were granted, which are to be used for acute exacerbations of condition(s) and/or to attend medical appointments to assist with ADLs.
5. The agency modified time requested for grooming, toileting, and transferring, and denied any PCW time pertaining to mobility.
6. Petitioner timely filed an appeal of the modification to her PCS time request.

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(1)(b) .

Personal care workers can spend no more than one-third of their time performing housekeeping activities, or one-fourth when the recipient lives with family. Like all medical assistance services, PCW services must be medically necessary, appropriate, and cost effective. Wis. Admin. Code, §DHS 107.02(3)(e)1, 2, and 3. The petitioner has the burden to prove, by a preponderance of the credible evidence, that the requested services meet the approval criteria.

To determine the numbers of PCW hours, providers are required by the Department to use the Personal Care Screening Tool (PCST), a tool meant 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 Department's reviewer can then adjust to account for variables missing from the screening tool's calculations.

In this case, the Department ultimately approved all requested PCW time in the PA for bathing and upper and lower dressing. The Department reduced the time requested for grooming, toileting, and transfers. The Department denied the requested time for mobility. It approved time for Incidental matters but at a lower amount than sought as approved direct hours were less than requested. The respondent's modification relied heavily upon a June 2022 Long Term Care Functional Screen prepared by petitioner's IRIS provider, which the petitioner argues does not reflect her current status (7 months later), nor her status in November of 2022 (5 months later).

Petitioner and her daughter appeared at hearing. I found their testimony to be credible and reliable. Petitioner has more recently been dealing with dementia, in addition to her worsening physical condition. Petitioner's daughter noted that her mother is increasingly weak physically, and at present she requires almost constant assistance with all bathing, grooming, mobility and transferring. She further testified that petitioner lives alone, but that there is always someone, presumably unpaid caregivers, with her. Based on the record, I find that petitioner has established that the requested 100 units per week of PCW time are medically necessary.

I note that the Department in prior years had approved PA requests submitted on petitioner's behalf for PCW time in an amount greater than the Department approved/modified here. See Exhibit 1, Consultant Letter. The Department indicated those approvals only went through a clerical review, which largely only identifies obvious discrepancies. *Id.* The current PA went through a more intensive clinical review by a nurse consultant. It is the provider's and petitioner's burden to submit sufficient evidence to demonstrate medical necessity of the requested PCW time. Based on the record before me, I find that petitioner has established the medical necessity of the PCW time requested, and the agency has not successfully rebutted the petitioner's arguments, documentation, and testimony.

Note to Petitioner: *Your provider will not receive a copy of this Decision. In order to have the PCW service requested here, you must provide a copy of this Decision to Universal Home Health Care. The provider must then submit a new prior authorization request to receive the approved service.*

CONCLUSIONS OF LAW

The petitioner requires 100.00 PCW units weekly, effective November 16, 2022 through the end of the current authorization period.

THEREFORE, it is

ORDERED

That Universal Home Health Care is hereby authorized to provide the petitioner with **100.00** PCW units weekly for the period beginning November 16, 2022, and to submit its claim, along with a copy of this Decision and a new prior authorization request, to ForwardHealth for payment. In all other respects, the petition is 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, 4822 Madison Yards Way, 5th Floor North, 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

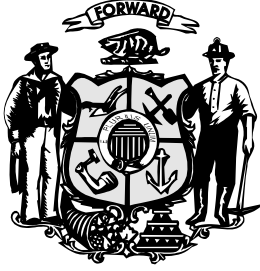
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision 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 24th day of February, 2023



Peter McCombs
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 February 24, 2023.

Division of Medicaid Services