



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

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In the Matter of

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**DECISION**  
Case #: MPA - 207077

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**PRELIMINARY RECITALS**

Pursuant to a petition filed November 28, 2022, under Wis. Stat., §49.45(5), to review a decision by the Division of Medicaid Services (DMS) to modify a Medical Assistance (MA) authorization for personal care worker (PCW) services, a hearing was held on January 25, 2023, by telephone.

The issue for determination is whether the DMS correctly reduced requested PCW time.

**PARTIES IN INTEREST:**

Petitioner:

██████████  
████████████████████  
████████████████████

Respondent:

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

By: Written submission of ██████████, RN  
Division of Medicaid Services  
PO Box 309  
Madison, WI 53701-0309

**ADMINISTRATIVE LAW JUDGE:**

Brian C. Schneider  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is a 63-year-old resident of Milwaukee County who is eligible for MA.
2. Petitioner's principal diagnosis affecting his ability to care for himself is low back pain. He had PCW services of approximately 40 hours per week approved in 2021 and 2022. Those approvals were granted without clinical review by the DMS.

3. On September 21, 2022, Life Touches Home Healthcare requested prior authorization for 78 units weekly PCW services (78 units is equal to 19.5 hours), PA no. [REDACTED]. This request was pulled for clinical review by a DMS consultant.
4. The consultant approved requested time for bathing and transfers. Life Touches requested 30 minutes per day for grooming; the consultant approved just 10 minutes per day because the only grooming task mentioned as needing assistance was shaving. Life Touches requested 20 minutes per day for mobility assistance; the consultant denied time for mobility because the a personal care screen done in July, 2022 stated that petitioner was able to move about his residence on his own or with a cane. Finally, Life Touches requested an additional 28 minutes per day for behavioral concerns, noting that petitioner has schizophrenia; the consultant denied the additional time because petitioner's medical records do not mention schizophrenia and, more importantly, the plan of care signed by his doctor did not mention a need for additional time due to behaviors.
5. The DMS granted 41 units (10.25 hours) per week PCW time. Petitioner was informed of the modification by a letter dated November 14, 2022. In addition, the approval went only to March 19, 2023 instead of the requested 53 weeks, because the plan of care expires March 19, 2023.

### 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 DMS 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 DMS'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 DMS follows unless the request explains specifically why additional time is necessary. The Table is found as Attachment 10 to Nurse Consultant [REDACTED]'s January 23, 2023 case summary.

I note first that a major reason for the reduction in PCW time is that, although previously 40 hours per week were granted, in this PA request the provider requested only 19.5 hours per week. I cannot restore petitioner to 40 hours per week because I am limited to approving, at most, the time requested.

Petitioner testified that since the assessment he has had two surgeries, one of which decreased the use of his hand, the other decreasing his mobility. The problem is that I am reviewing the determination based on the submission with the PA request. If petitioner's capabilities have decreased, the provider must request an amendment with updated medical information. Life Touches has not requested an amendment, so I am unable to make a determination of petitioner's needs beyond the original submission.

With regard to the original submission, I cannot find fault with the DMS determination. The provider did not explain the need for 30 minutes, rather than the standard 10 minutes, for daily grooming. Although both petitioner and his caretaker testified about his loss of mobility since his surgery, the determination made was correct based upon the information available at the time the DMS determination was made. Finally, petitioner's recent medical records do not mention schizophrenia, and most importantly, petitioner's plan of care does not mention a need for more time due to behaviors.

I conclude that the modification of PCW services from 19.5 hours weekly to 10.25 hours weekly was correct. I urge petitioner to discuss a possible amendment with his Life Touches representative, and I note again that the current approval runs only to March 19, 2023, so a new request will have to be made before that date. An amendment or a new request should include updated records of petitioner's capabilities.

### CONCLUSIONS OF LAW

The DMS correctly determined PCW hours to be 10.25 hours per week based upon the records and plan of care submitted by the home health agency.

**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, 4822 Madison Yards Way, 5<sup>th</sup> 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

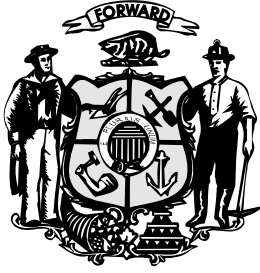
IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

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 27th day of January, 2023



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Brian C. Schneider  
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 January 27, 2023.

Division of Medicaid Services