



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: HMO - 220800

PRELIMINARY RECITALS

Pursuant to a petition filed on November 10, 2025, under Wis. Stat. § 49.45(5)(a), and Wis. Admin. Code § HA 3.03, to review a decision by the Division of Medicaid Services regarding Medical Assistance (MA), a hearing was held on January 7, 2026, by telephone.

The issue for determination is whether the HMO correctly partially denied the petitioner's prior authorization for personal care services.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
201 E. Washington Ave.
Madison, WI 53703

By: Mary Reich, Dr. Daniel Ross, UHC
Division of Medicaid Services
PO Box 309
Madison, WI 53701-0309

ADMINISTRATIVE LAW JUDGE:

Kate J. Schilling
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a 38 year old resident of Milwaukee County. She receives her Medicaid benefits through the health maintenance organization (HMO) United Healthcare.
2. The petitioner's medical history includes multiple sclerosis, rheumatoid arthritis, restrictive lung disease, anemia, and fibromyalgia. She uses a cane for mobility assistance.
3. On July 3, 2025, a nurse from the petitioner's home health agency completed the personal care screening tool assessment which indicated that the petitioner needed various levels of assistance with all activities of daily living (ADLs).
4. On August 25, 2025, the petitioner's home health agency submitted a prior authorization request to the HMO for 3.5 hours per day (24.5 hours per week) of personal care worker services.
5. On August 29, 2025, the HMO representative completed a virtual assessment of the petitioner and determined that she required 7 hours per week of personal care services.
6. On September 2, 2025, HMO sent a notice to the petitioner that it had partially approved her request for personal care services as it had approved 7 hours per week and denied 17.5 hours per week.
7. On an unknown date, the petitioner appealed the partial denial to the HMO.
8. On September 3, 2025, the HMO faxed a list of recommended durable medical equipment for the petitioner to her primary care doctor. This list included a shower chair, shower grab bar, raised toilet seat, grab bar by the toilet, and a wheeled walker with a seat.
9. On September 23, 2025, the HMO reconsidered its decision as part of an internal appeal panel. The petitioner participated in this review. The panel upheld its original determination approving 7 hours per week of personal care services.
10. On November 10, 2025, the petitioner appealed to the Division of Hearings and Appeals.
11. On December 18, 2025, the Dept. of Health Services Division of Medicaid submitted a written response to the petitioner's appeal filed with the Division of Hearings and Appeals. The submission was authored by consultant Mary Beth Olm, RN, BSN.

DISCUSSION

Under the discretion allowed by Wis. Stat. §49.45(9), the Department of Health Services ("the department") requires certain Medical Assistance (MA) recipients to participate in HMOs. See also, Wis. Admin. Code §DHS 104.05(1). HMOs are responsible for providing recipients all services, with limited exceptions, that are Medicaid covered services. Those exceptions are identified in the contract that participating HMOs enter into with the Department. See *BadgerCare Plus / Medicaid SSI Contract* (hereafter, "BCP HMO Contract") Article IV. Sec. D. and Wis. Admin. Code §DHS 107.28(1)(a)1.

The BCP HMO contract describes the HMO's obligation to provide covered services as follows:

The HMO must provide services in an amount, duration and scope that is no less than the amount, duration, and scope for the same services furnished to the member under fee for service Medicaid as defined in published policy within the Wisconsin Health Care Program Online ForwardHealth Handbook, as set forth in 42 CFR § 438.210(a)(2), 42 CFR § 440.230, and 42 CFR part 441, subpart B.

See also, 42 C.F.R. §438.210(a)2. HMOs are permitted to make decisions to provide or deny medical services on the basis of medical necessity and appropriateness as defined in the State Plan and Wis. Admin. Code §DHS 101.03(96m). See BCP Contract, Article IV. Sec. B. 42 C.F.R. §438.210(a)(4). If an HMO recipient disagrees with an HMO's decision to deny authorization for a requested service, the recipient may file an appeal with the HMO and, if dissatisfied with the outcome of that appeal, may then request a fair hearing with the Division of Hearings and Appeals. See Wis. Stat., §49.45(5); Wis. Admin. Code §DHS 104.01(5)(a)1.

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).

To determine the numbers of personal care worker (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. Additionally, personal care workers can spend no more than one-third (1/3) of their time performing housekeeping activities, or one-fourth (1/4) 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.

The petitioner's home health agency submitted a prior authorization request to the HMO for approval of 24.5 hours per week of personal care services. Prior to the HMO making its decision, it held a video call with the petitioner to assess her abilities. On September 2, 2025, the HMO partially approved the prior authorization as it approved the petitioner for 7 hours per week of personal care, but it denied the remaining

17.5 hours per week. The HMO determined that the petitioner required 1 hour per day of personal care assistance with bathing only and denied personal care assistance with all other activities of daily living (ADLs). (HMO Exhibit A) The HMO denied coverage in the other areas as it determined that the need was not supported by the petitioner's abilities or medical records, and that durable medical equipment could be used in place of a personal care worker.

Dr. Ross testified that in making its decision, the HMO relied on statements in the petitioner's medical records from an office visit with [REDACTED], NP on February 14, 2025. He stated that the medical provider had documented that the petitioner was having no difficulty walking or navigating stairs. He testified that it was also noted that she was not having problems with her knees, balance issues, or fibromyalgia. (HMO Exhibit B) He also stated that time was not allocated if the assistance was not needed on a daily basis. (Dr. Ross' testimony; HMO Exhibit B)

The HMO is correct that personal care worker services are not appropriate when an assistive device or durable medical equipment would be sufficient.

PCW assistance with an activity is not medically necessary if the member can perform the activity safely with the use of an assistive device. Therefore, personal care services are not covered services in that circumstance per Wis. Admin. Code §§ DHS 101.03(96m) and 107.02(3).

PCST Instructions F-11133A, General Instructions, page 2, last updated 11/2024, available here: <https://www.dhs.wisconsin.gov/forms/fl1133a-1124.pdf>

However, I disagree with the HMO's statement that a person needs to require the assistance on a daily basis in order for personal care worker time to be allocated. Rather, the PCST looks at whether the assistance is needed on at least a weekly basis.

Level of Help and Frequencies

When completing the elements in the ADL section, the screener should select only one response when indicating the level of help needed (Elements 19–26), except for Element 25 (Toileting). In Element 25, the screener should indicate all responses that apply. When completing elements in the ADL section, the screener should first determine if the member needs medically necessary assistance from a PCW with a task **at least weekly**. If the member needs assistance at least weekly, the screener should select the most appropriate level of help from the choices listed in the element for that ADL. **If the level of help varies, the screener should select the level of help that represents the level most often needed.**

The screener should only enter how frequent the PCW provides services to the member during scheduled visits.

(Emphasis added.) *PCST Instructions F-11133A, General Instructions, page 2, last updated 11/2024, available here: <https://www.dhs.wisconsin.gov/forms/fl1133a-1124.pdf>*

The petitioner is a 38 year old woman with multiple sclerosis, rheumatoid arthritis, restrictive lung disease, anemia, and fibromyalgia. Her adult sister and her 16 year old son are her current caregivers. The petitioner is enrolled in an HMO; however, members enrolled in an HMO "are entitled to at least the same benefits as fee-for-service members . . ." *Forward Health Handbook, Topic # 401*. Additionally, the HMO representative stated at the hearing that it utilized the Forward Health guidelines for personal care in making its decision.

I will address the petitioner’s need for assistance and the respective time allocations for each of the ADLs below:

Bathing

The HMO correctly allocated one hour per day for assistance with bathing. According to the PCST Instructions, the 1 hour allocation for bathing is *only* allowed when bathing is the only service provided. As I am allocating time for other ADLs, the maximum allowable allocation for assistance with bathing is 30 minutes per day. Thus, I find the petitioner requires 30 minutes per day for bathing assistance.

Dressing

The home health agency indicated that the petitioner requires physical assistance from another person twice per day to dress her upper and lower body. At the hearing, the petitioner testified that her arms and hands only go up approximately to her ears and not above her head. This means that she requires assistance putting on a shirt. The petitioner testified that she requires assistance putting on a bra and that her son has to put on her socks and shoes every time. Thus, she needs assistance with both upper and lower dressing. The petitioner’s medical records from February 14, 2025, corroborate her testimony and state the following:

Progress Notes

* * *

Current:

* * *

Son helping putting shoes on, putting hair up for 6 months or so

(HMO Exhibit A) I agree with the HMO that according to the Personal Care Screening Tool Instructions, one episode of dressing is included with the bathing time previously allocated. Therefore, I am allocating time for upper and lower dressing one additional time during the day for the petitioner to change out of her clothes and shoes and into pajamas at the end of the day. I am allocating 10 minutes per day for upper dressing and 10 minutes per day for lower dressing, for a total of 20 minutes per day for dressing.

Grooming

The home health agency requested time for grooming twice per day as the petitioner “is not able to raise her arms adequately for grooming.” (HMO Exhibit A). This notation is corroborated by the petitioner’s testimony at the hearing that she cannot raise her hands and arms further than approximately her ears on her head. She testified that she cannot do her hair as her arms cannot reach that high and her son has to do her hair for her. She also testified that her son brushes her teeth every day twice per day.

The petitioner’s medical records from February 14, 2025, corroborate her testimony and state the following:

Progress Notes

* * *

Current:

* * *

Can tell that elbows aren’t able to straighten sometimes and has to prop elbows at night sometimes.

Similar issues with the shoulders where she cannot lift the arms above her head.

(HMO Exhibit A) The medical records for this same date also state the following:

Musculoskeletal

Gait and stance is normal;

Shoulders: tenderness over the glenohumeral joint bilaterally with synovitis. Pain with abduction and flexion over 90 degrees. Crepitus on the right.

Elbows: reduced extension < 5 on the right without pain. No synovitis.

Minimally reduced extension on the left without pain. No synovitis.

Wrists: tenderness with synovitis bilaterally. Reduced flexion/extension bilaterally with R>L with pain

Hands: swan neck deformity of the bilateral 2nd-5th digits and volar subluxation of the MCPs (proximal phalanges subluxed under metacarpal heads)

(HMO Exhibit A) Therefore I am allocating 10 minutes twice per day for grooming, for a total of 20 minutes per day of grooming.

Eating

The PCST option selected by the home health care agency indicates that the petitioner requires intermittent supervision or cueing with eating. It also requested assistance with meal setup, meal preparation, and cleaning the kitchen. The screening tool does not allocate time for activities that do not require hands-on assistance from a caregiver; therefore, no time can be allocated for supervision or cueing while eating. Additionally, the other tasks mentioned in this section are not activities of daily living, and therefore, the PCST does not allocated time directly for them. Therefore, no time is allocated for eating.

Mobility

The home health agency indicated that the petitioner requires physical assistance from another person to aid in mobility. The HMO denied time in this category as it determined that the petitioner was independent in mobility as she utilized a cane for assistance. The petitioner testified that she has joint swelling and arthritis in her wrist that are painful every day, but this pain becomes extreme and worsens to the point of making movement nearly impossible on days when it rains. The petitioner's sister is one of her current caregivers. She testified at the hearing that she sees the petitioner experiences a lot of difficulty with movement, and that she has to help the petitioner lift her legs up to get up the stairs. The petitioner's medical records from February 14, 2025, state "positive for joint pain, joint swelling, joint stiffness, and morning stiffness sometimes." (HMO Exhibit A). Therefore, I am allocating 20 minutes once per day for mobility assistance.

Toileting

The home health agency indicated that the petitioner needs the presence of another person intermittently for supervision or cueing. As a caregiver was not needed to provide hands-on assistance, the HMO properly denied a time allocation for this category. However, the testimony of the petitioner at the hearing was that she requires assistance from another person to help with wiping and hygiene after each visit to the bathroom as her hands "do not bend the right way." This testimony was corroborated by the testimony of the petitioner's sister at the hearing who stated that she provides assistance with wiping and hygiene after the petitioner uses the bathroom. The petitioner also explained that she has difficulty getting herself up and off the toilet after using the bathroom. The HMO argued that the petitioner would not require assistance from another person getting up and off the toilet if she utilized a raised toilet seat

and grab bars. In response, the petitioner stated that due to arthritis pain in her wrist and decreasing strength she cannot rely on her hands to push up or pull her body into another position.

The petitioner’s medical records from February 14, 2025, corroborate her testimony and state the following:

Progress Notes

* * *

Current:

* * *

Can tell that she has deformities in the hands.

* * *

Trouble opening things worse on the right. Strength is declining in hands.

(HMO Exhibit A) I agree with the HMO that durable medical equipment such as a raised toilet seat and grab bars near the toilet would likely make it easier for the petitioner to get up and off the toilet after going to the bathroom. However, due to the petitioner’s arthritis, hand deformity, and decreasing strength in her hands, this may not be a long-term solution. Additionally, durable medical equipment cannot replace the need for hands-on assistance with wiping and hygiene. Therefore, I find that the petitioner requires physical assistance of another person to use the restroom and I am allocating 50 minutes per day for this.

Transfers

The home health agency indicated that the petitioner required physical help of another person for transferring, but is able to participate in the task. The notes in this section state that the petitioner requires physical assistance from another person, even if she is using her cane, to move from room to room, sit down and stand up, and getting in and out of bed. At the hearing, the petitioner’s sister testified that she helps the petitioner get out of bed as that is particularly difficult. “Morning stiffness” is documented in the medical records from February 14, 2025, as referenced above under “mobility,” and corroborates this testimony. Therefore, I am allocating 15 minutes per day for transfers.

Services Incidental to ADLs

The PCST completed by the home health agency requested time be allocated to assist the petitioner with meal preparation, cleaning the kitchen, and cleaning the house. The petitioner’s sister testified at the hearing that she provides assistance to the petitioner with cleaning, cooking, laundry, grocery shopping, and attending medical appointments. She stated that her sister has difficulty doing tasks an average person can do because of the swelling and inflammation in her hands and wrists and the joint pain she experiences.

The *Forward Health Handbook* Topic #3167 states that these are services incidental to ADLs and time can be allocated for it if a personal care worker is performing those tasks.

Services Incidental to Activities of Daily Living and Medically Oriented Tasks

When the screener indicates on the [PCST](#) that the member needs services incidental to ADL and that the PCW will provide those services, the PCST automatically calculates the maximum amount of time to allocate for services incidental to the ADL and MOTs [medically-oriented tasks].

BadgerCare Plus covers the following services that are incidental to ADL and MOTs:

- Changing the member's bed and laundering the member's bed linens and personal clothing
- Light cleaning in essential areas of the home used during personal care activities
- Care of eyeglasses and hearing aids
- Meal preparation, food purchasing, and meal service

The weekly amount of personal care time prior authorized for the member combines the amount of time prior authorized for ADL, MOTs, and for services incidental to the ADL and MOTs. Neither travel time nor PRN time qualifies to have time added for services incidental to ADL and MOTs.

Forward Health Online Handbook, Topic #3167. See also *PCST Instructions* F-11133A, Section VI, page 16, last updated 11/2024, available here: <https://www.dhs.wisconsin.gov/forms/fl1133a-1124.pdf>. This allocation is determined by calculating the total allocation of weekly minutes for ADLs by 0.25. *Forward Health Handbook* Topic #3167.

Having found that the petitioner requires 1,085 minutes per week of personal care time, I must now calculate time for tasks such as laundry, shopping, cooking, and cleaning. The formula is minutes per week multiplied by 0.25. The petitioner has been allocated 1,085 minutes of personal care per week: $1,085 \times 0.25 = 271.25$. Therefore, the grand total of minutes allocated is $1,085 + 271.25 = 1,356.25$ minutes per week. This equates to 22.60 hours per week.

CONCLUSIONS OF LAW

The petitioner established by a preponderance of the evidence the medical necessity of 22.60 hours of personal care services per week.

THEREFORE, it is

ORDERED

That this matter is Remanded to the HMO to approve the prior authorization request for personal care services in the amount of 22.60 per week. This action shall be taken within 7 days of this decision.

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.

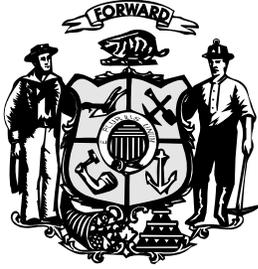
APPEAL TO COURT

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, 201 E. Washington Ave., **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 2nd day of February, 2026

\s _____
Kate J. Schilling
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 2, 2026.

Division of Medicaid Services
DHS MC Appeals