



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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/169826

PRELIMINARY RECITALS

Pursuant to a petition filed October 30, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance, a hearing was held on November 24, 2015, at Appleton, Wisconsin.

The issue for determination is whether a request for Medicaid payment for foot orthotics may be approved.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

█
█
█

Respondent:

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

By: Kristen Derenne, DPT
Division of Health Care Access and Accountability
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Outagamie County.

- 2. A prior authorization request seeking Medicaid payment for foot orthotics, specifically a UCB Berkeley shell, was filed on behalf of Petitioner on or about August 17, 2015. The Medicaid program denied the request.
- 3. Petitioner is 19 years of age (██████). The prior authorization request lists Petitioner’s diagnoses as plantar fibromatosis and congenital pes planus.
- 4. The reason for the denial here is that the Medicaid program cannot, by law, pay for orthotics for flattened arches and because the PA request did not demonstrate that Petitioner’s other conditions meet the standards necessary for approval of Medicaid payment.

DISCUSSION

The MA program may only reimburse providers for medically necessary and appropriate health care services and equipment listed in Wis. Stat., §§49.46(2) and 49.47(6)(a), as implemented by the Wisconsin Administrative Code, chapter DHS 107.

The administrative code provision governing durable medical equipment provides, in relevant part, as follows:

DHS 107.24. Durable Medical Equipment and Supplies . . .

(2) COVERED SERVICES . . . (c) Categories of durable medical equipment. The following are categories of durable medical equipment covered by MA: ...

3.Orthoses. These are devices which limit or assist motion of any segment of the human body. They are designed to stabilize a weakened part or correct a structural problem. Examples are arm braces and leg braces....

...
(4) OTHER LIMITATIONS . . .

(f) Orthopedic or corrective shoes or foot orthoses shall be provided only for postsurgery conditions, gross foot deformities, or when attached to a brace or a bar. These conditions shall be described in the prior authorization request....

...
(5) NON-COVERED SERVICES. The following services are not covered services:

(a) Foot orthoses or orthopedic or corrective shoes for the following conditions:
1. Flattened arches, regardless of the underlying pathology;

...
Wis. Admin. Code, §DHS 107.24.

I am sustaining the denial. I do note that the Department letter, Ex # 3, is clear as to the denial based on the flattened arches but is less clear as to the rationale for the denial of orthotics for the plantar fibromatosis. Nonetheless, the PA submission itself focuses on the pes planus and does not detail the gross deformity necessary for Medicaid payment for any other condition.

CONCLUSIONS OF LAW

That the Department correctly denied the request for orthotics because orthotics for flatten arches cannot be paid for by Medicaid and Petitioner is not shown to have a gross foot deformity as required for Medicaid coverage of orthotics for other reasons.

THEREFORE, it is

ORDERED

That this appeal 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, 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.

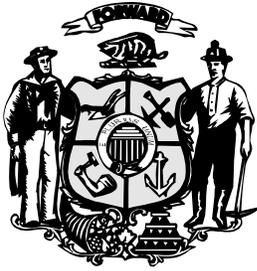
APPEAL TO COURT

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, Madison, Wisconsin 53703, **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 Milwaukee,
Wisconsin, this 25th day of January, 2016

\sDavid D. Fleming
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 January 25, 2016.

Division of Health Care Access and Accountability