



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION
Case #: FCP - 174577

PRELIMINARY RECITALS

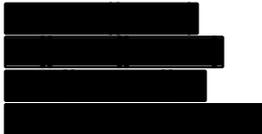
Pursuant to a petition filed on May 17, 2016, under Wis. Admin. Code § DHS 10.55, to review a decision by the Continuous regarding Medical Assistance (MA), a hearing was held on August 10, 2016, by telephone. Hearings scheduled for June 9, 2016, and July 13, 2016, were rescheduled at the petitioner's request.

The issue for determination is whether the petitioner is entitled to medical assistance reimbursement for an electric Hoyer lift.

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: [Redacted]

Continuous
28526 US Hwy 14
Lone Rock, WI 53556

ADMINISTRATIVE LAW JUDGE:
Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Eau Claire County.
2. Continuous denied the petitioner's request for a new electric Hoyer lift on March 28, 2016.
3. The petitioner's current electric Hoyer lift is a 2003 model and not working.
4. Continuous allowed the petitioner to have a manual Hoyer lift.
5. A manual Hoyer lift costs \$965. An electric lift would cost \$2,500 - \$3,000 depending on the model. It would cost \$1,497.42 to repair her current lift.
6. The petitioner has not established that a manual lift will lead to injuries to her.

DISCUSSION

Certain types of durable medical equipment must be authorized in advance before the medical assistance program will pay for it. *See Wis. Admin. Code, § DHS 107.24.* The petitioner requested that her managed care organization, Continuous, replace or repair her electric Hoyer lift. This device lifts her on and off the toilet and into and out of the bathtub. Continuous instead agreed to pay for a manual lift.

When determining whether to approve the lift, Continuous must consider whether lift is medically necessary, whether less expensive alternative services are available, the appropriateness of the lift, its cost, and the effective and appropriate use of available services. *Wis. Admin. Code, § DHS 107.02(3)(e).* A service is "medically necessary" if it is "[r]equired to...treat a recipient's...disability and

...

7. Is not solely for the convenience of the recipient, the recipient's family or a provider;
8. With respect to prior authorization of a service and to other prospective coverage determinations made by the department, is cost-effective compared to an alternative medically necessary service which is reasonably accessible to the recipient..."

Wis. Admin. Code, § DHS 101.03(96m)

The petitioner is a 147 pound woman with arthritis who depends upon others for all of her cares. She lives in an adult family home. Continuous had a physical therapy examination performed to determine what type of lift would meet her needs. The examination concluded that she could be safely moved with a manual lift if two persons performed the task. She disagrees, arguing that the manual lift causes her to rise and fall more abruptly, which puts her arthritic body at risk. There is no evidence of this; in fact, since her electric lift broke, she has used the manual lift in her adult family home without any repercussions.

At the hearing, she brought up another reason for requesting the electric lift: If she moves, she will need a lift that one person can operate. At this point her claim is speculation because there is no evidence that she will move. What has been established is that the requested electric lift would cost between \$2,500 and \$3,500, compared with \$965 for the manual lift. Even repairing her current electric lift would cost \$1,497.42, and because of its age would probably need frequent further repairs. From this, I find that the manual lift is a less expensive alternative service that will meet her needs and that the electric lift is not cost-effective.

The one advantage of an electric lift is that it would be more convenient for the petitioner's caregivers because one person could operate it. But a request cannot be approved solely because it is convenient to for a caregiver. Therefore, this is not a reason for overturning the denial.

CONCLUSIONS OF LAW

Continuous correctly denied the petitioner's request for an electric Hoyer lift because she has not proved by the preponderance of the credible evidence that it is cost effective and medically necessary.

THEREFORE, it is

ORDERED

The petitioner's 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, **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 20th day of September, 2016

\s _____
Michael D. O'Brien
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 September 20, 2016.

Continuus
Office of Family Care Expansion
Health Care Access and Accountability