



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

FCP/140707

PRELIMINARY RECITALS

Pursuant to a petition filed May 02, 2012, under Wis. Admin. Code § DHS 10.55, to review a decision by the Family Care Program in regard to Medical Assistance, a hearing was held on September 20, 2012, at Milwaukee, Wisconsin.

The issue for determination is whether the Family Care Program (FCP) correctly denied a request for payment for a lift chair.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

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

By: Annette Schlagenhaft, RN
Family Care - Agency Unknown
and
Lillian Alford – Mil Cty Family Care

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. In early 2012 Petitioner requested that the FCP provide her with a lift chair. A lift chair is a chair with a powered lifting mechanism that pushes the entire chair up from its base and so assists the user to move more easily to a standing position.

3. The request for the lift chair was denied and Petitioner was sent a written notice of denial dated March 21, 2012. She timely appealed.
4. Petitioner's diagnoses include diabetic neuropathy, asthma, congestive heart failure, constipation, non-insulin dependent diabetes, lower income limits and morbid obesity. It is thought that she may have some arthritis but has no diagnosis of such.
5. Petitioner suffered a fall, apparently in mid-2012 (she noted at least three falls in the past, all of which have caused, or contributed to, lower back pain) for which physical therapy was prescribed. She was unable to participate in all of the physical therapy apparently because of transportation problems.
6. Petitioner requested the lift chair because getting up from a seated position at home causes lower back pain. Petitioner currently has a couch that she uses and finds it difficult to get off of.
7. Petitioner does live in her own apartment. She uses a walker and a scooter. She does receive personal care worker services at a frequency of 55 units or 13.75 hours per week. She is able to be somewhat active in the community using the scooter and with the help of transportation provided by the Family Care Program.
8. No particular lift chair was picked for Petitioner so the exact cost is not known but the family care representative indicated that she believed it would be between \$700 and \$2000.

DISCUSSION

The Family Care Program, which is supervised by the Department of Health and Family Services, is designed to provide appropriate long-term care services for elderly or disabled adults. *Medicaid Eligibility Handbook (MEH)*, §29.1. It is authorized under Wisconsin Statutes, §46.286, and is described comprehensively in the *Wisconsin Administrative Code at Chapter DHS 10*. The program is operated and administered in each county by a Care Management Organization (CMO), which in this case is Community Care, Inc. Though Family Care enrollees are full partners in the assessment of needs and strengths and in the development of care plans those plans are subject to the general requirements and limitations outlined for the program, including the requirement that a service be cost-effective compared to alternative services or supports that could meet the same needs and achieve similar outcomes. *Wis. Admin. Code, §§ DHS 10.44(2)(e) & (f)*. Medical assistance and its subprograms are meant to provide only basic and necessary health care.

In the Family Care Program (FCP), a case management organization (CMO) must develop an Individual Service Plan (ISP) in partnership with the client. *Wis. Admin. Code, §DHS 10.44(2)(f)*. The ISP must reasonably and effectively address all of the client's long-term needs and outcomes to assist the client to be as self-reliant and autonomous as possible, but nevertheless must be cost effective. While the client has input, the CMO does not have to provide all services the client desires if there are less expensive alternatives to achieve the same results. *Wis. Admin. Code, §DHS 10.44(2)(f); DHS booklet, Being a Full Partner in Family Care, page 9.*

Petitioner would like the lift chair because getting off of the couch causes lower back pain. She is unwilling to accept other alternatives, for example, a recliner with arms or a wing chair with arms and an ottoman. She did express an interest in sharing the cost of the lift chair with the Family Care Program.

The Family Care Program representative indicated that the reason for the denial of this request was that Petitioner does not have a diagnosis that would support Medicaid or Medicare payment for the requested chair. The Family Care Program did check into the Medicare payment guidelines and found that a patient must have a severe neuromuscular disease or be incapable of standing from a regular armchair to qualify

for Medicare payment. This would include, for example, individuals with advanced Parkinson's or who have had a stroke and have limited ability to move or ambulate.

I am upholding the denial of the requested lift chair. Petitioner does not have a specific diagnosis of a musculoskeletal condition which prevents her from getting out of a chair; e.g., she is not partially paralyzed by a stroke nor is function limited by Parkinson's or similar malady. Her case management organization personnel have observed that she can get out of a chair. She was able to do so at the hearing also, albeit slowly. She has been offered physical therapy to further increase her strength but was not able to complete the PT regimen. I note that less expensive alternatives, such as an arm chair or recliner, are not of interest to Petitioner. The Family Care Program is required to be cost effective and I respectfully suggest to Petitioner that she ask that she be permitted to resume her physical therapy and reconsider the arm chair possibility. Those suggestions are not an order to the FCP to approve or provide those items, rather a suggestion that Petitioner consider requesting them.

CONCLUSIONS OF LAW

That the evidence is not sufficient to demonstrate that the requested lift chair meets the standards necessary for approval for payment by the Family Care Program.

THEREFORE, it is

ORDERED

That this appeal is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found 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 appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson

Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 24th day of September, 2012

David D. Fleming
Administrative Law Judge
Division of Hearings and Appeals

c: Family Care - Agency Unknown - email
Department of Health Services - email



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The preceding decision was sent to the following parties on September 24, 2012.

Family Care - Agency Unknown
Office of Family Care Expansion