



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

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In the Matter of

[REDACTED]

DECISION

MPA/143009

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**PRELIMINARY RECITALS**

Pursuant to a petition filed August 10, 2012, 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 October 02, 2012, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly denied a Prior Authorization request submitted on the Petitioner's behalf for a high strength, lightweight wheelchair.

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: Mary Chucka

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

**ADMINISTRATIVE LAW JUDGE:**

Debra Bursinger  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is a resident of Milwaukee County.

2. Petitioner has diagnoses that include osteoarthritis, chronic malaise and fatigue, right arm/shoulder injury, back pain, knee pain and limping/difficulty with walking.
3. On June 13, 2012, a PA request was submitted from Home Care Medical for a high strength, lightweight wheelchair at a cost of \$1,083.53. The PA request indicated that the wheelchair was needed by the Petitioner for ADLs and for access to community activities. The following documentation was submitted in support of the request: a prescription by Dr. Cha Lee for “manual wheelchair; dx knee pain”; a letter from Dr. Lee indicating a wheelchair is a medical necessity for the Petitioner because of diagnoses of difficulty walking, back pain and knee pain; and a medical record of a physical exam on April 10, 2012.
4. On July 11, 2012, the agency issued a modified approval of the PA request. The agency indicated that the request and supporting documentation was insufficient to demonstrate that the Petitioner requires a high strength, lightweight wheelchair. The agency approved a standard manual wheelchair for the Petitioner.
5. On August 9, 2012, the Petitioner filed an appeal with the Division of Hearings and Appeals.

### DISCUSSION

This case involves a PA request for a high strength, lightweight manual wheelchair. The requested equipment is a type of durable medical equipment that must be authorized by the agency before the medical assistance program will pay for it. See Wis. Adm. Code § HFS 107.24. The agency did not find the requested wheelchair to be medically necessary because the PA request did not include sufficient information to determine that a high strength, lightweight new manual wheelchair is required by the Petitioner at this time. Instead, the agency approved a standard manual wheelchair.

At the hearing, the Petitioner testified convincingly that an injury to her right arm/shoulder and her general malaise and fatigue make it impossible for her to propel a wheelchair – any wheelchair. She testified that she does not want either a standard or a lightweight wheelchair because she cannot use either type. She indicates that the only wheelchair that will be useful to her is a power wheelchair. She is uncertain why her provider requested a manual wheelchair.

The Department is correct in its written summary of the basis for its modification that the information submitted by the provider is insufficient to demonstrate that the Petitioner needs a lightweight wheelchair. In fact, the information submitted by the provider was so limited that I believe the Department was generous in approving even a standard manual wheelchair.

Based on the limited information submitted by the provider and on the fact that the Petitioner does not want a manual wheelchair, I conclude the Department’s action in not approving the purchase of a lightweight manual wheelchair was correct. There was not sufficient information to demonstrate that a lightweight wheelchair is medically necessary.

While this conclusion resolves the issue for this particular appeal, it does not resolve the issue for the Petitioner who clearly needs some form of assistance for mobility. It was explained to the Petitioner at the hearing that she should provide a copy of this decision to her physician and the medical equipment provider. A new request may be submitted on behalf of the Petitioner for mobility assistance that will meet the needs of the Petitioner. Any such request must have sufficient information to allow the agency to determine the medical necessity of the item requested.

In reviewing a prior authorization request and determining whether the request can be approved, the agency is required to consider the following criteria:

1. The medical necessity of the service;

2. The appropriateness of the services;
3. The cost of the service; . . .
5. The extent to which less expensive alternatives are available; . . .
7. The effective and appropriate use of available services; . . .
9. The limitations imposed by pertinent federal or state statutes, rules, regulations or interpretations including Medicare or private insurance guidelines.

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Wis. Admin. Code § DHS 107.02(3)(e).

It is the responsibility of the provider to submit sufficient information to demonstrate that the requested item is “medically necessary” as that term is defined by the MA program. The provider should note that “medically necessary” is defined in Wis. Admin. Code § DHS 101.03(9 6m) as:

- (a) Required to prevent, identify or treat a recipient’s illness, injury or disability; and
- (b) Meets the following standards:
  1. Is consistent with the recipient’s symptoms or with prevention, diagnosis or treatment of the recipient’s illness, i njury or disability;
  2. Is provided consistent with standards of acceptable quality of care applicable to the type of service, the type of provider, and the setting in which the service is provided;
  3. Is appropriate with regard to generally accepted standards of medical practice;
  4. Is not medically contraindicated with regard to the recipient's diagnoses, the recipient's symptoms or other medically necessary services being provided to the recipient;
  5. Is of proven medical value or usefulness and, consistent with s. HFS 107.035, is not experimental in nature;
  6. Is not duplicative with respect to other services being provided to the recipient;
  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; and
  9. Is the most appropriate supply or level of service that can safely and effectively be provided to the recipient.

Wis. Adm. Code § HFS 101.03(96m).

The mere assertion, even of a doctor or clinician, that a person needs a specific item is not the same thing as demonstrating with factual and clinical evidence that the item meets these criteria to establish it is medically necessary.

**The Petitioner should provide a copy of this decision to her physician and to the medical equipment provider so that they are aware of her needs and desire for mobility assistance and the documentation that is required in order to meet the criteria for approval of any equipment that may be requested on her behalf.**

I note, as dicta, that the Petitioner speaks little or no English. Her primary language is Hmong. A Hmong interpreter was present for the hearing. I respectfully suggest that the Petitioner may want to contact the Hmong American Friendship Association for assistance in this matter. The website for the Association indicates the following general information contact person: Connie Xiong - [conxiong@hmongamer.org](mailto:conxiong@hmongamer.org), (414) 344-6575. The Association may be able to help the Petitioner with translation services or other

health-related services and may be able to assist the Petitioner and her provider in submitting a new request for mobility assistance.

I further note that the Petitioner asked what she should do with the manual wheelchair that was delivered to her. The Petitioner indicated that she does not use the wheelchair because she cannot propel it herself. Though we discussed at the hearing that the Petitioner should keep the chair for now even though she doesn't use it, **I now suggest that the Petitioner try to return the chair to Home Care Medical as it may be difficult for the Petitioner to get approval of an alternative form of mobility assistance if she has the wheelchair.**

### **CONCLUSIONS OF LAW**

The agency properly modified the PA request.

**THEREFORE, it is ORDERED**

That the petition be, and hereby 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 5th day of October, 2012

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Debra Bursinger  
Administrative Law Judge  
Division of Hearings and Appeals

c: Division of Health Care Access And Accountability - email  
Department of Health Services - email



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on October 5, 2012.

Division of Health Care Access And Accountability