



STATE OF WISCONSIN  
Division of Hearings and Appeals

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In the Matter of

[REDACTED]

DECISION

MPA/143950

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**PRELIMINARY RECITALS**

Pursuant to a petition filed September 19, 2012, under Wis. Stat., §49.45(5), to review a decision by the Division of Health Care Access and Accountability (DHCAA) to deny Medical Assistance (MA) authorization for a stroller, a hearing was held on October 19, 2012, by telephone.

The issue for determination is whether the requested equipment was shown to be medically necessary.

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]

Respondent:

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

By: Written submission of Mary Chucka, OT Consultant

**ADMINISTRATIVE LAW JUDGE:**

Brian C. Schneider  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is a 5-year-old resident of Oconto County who receives MA.
2. Petitioner is diagnosed with pervasive development disorder, attention deficit hyperactivity disorder, and oppositional defiant disorder. He lives with foster parents in a pre-adoptive placement.
3. On July 24, 2012, Green Bay Home Medical Equipment requested prior authorization for a McClaren stroller with shoulder straps, PA no. [REDACTED]. By a letter dated July 24, 2012, the DHCAA denied the request.

4. The basis for the request was that petitioner has “emotional triggers and behavioral meltdowns that will send him into fits of rage, biting, taking off and running away.” The doctor’s prescription for the stroller is “to assist with safe holding.”

### DISCUSSION

In determining whether to approve or disapprove a request for prior authorization, the DHCAA is required to consider the following criteria found at Wis. Admin. Code, §DHS 107.02(3)(e):

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.

Emphasis added. "Medically necessary" is defined in the administrative code as any MA service under chapter DHS 107 that is:

- (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, injury or disability; . . .
  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 Department periodically published MA Provider updates to inform providers of changes and interpretations in MA policy. In September, 2004, Update no. 2004-75 was issued. That update provided a list of MA non-covered services. Included in the list was “restraints.” The DHCAA denied the stroller in this case because its intended use to as a restraint to control petitioner’s outbursts.

I find that the problem goes beyond being a restraint. Petitioner is able to ambulate, so the stroller is not meant to help with his mobility. The stroller’s sole purpose, in the documentation submitted with the request, is to help his caregivers alleviate his outbursts. That puts the intended use squarely into the area of being solely for the convenience of the recipient’s caregivers and providers.

During the hearing two new pieces of evidence were supplied. First, it was mentioned that petitioner is legally blind without glasses, and that might contribute to his behavior difficulties. If so, the problem still is the behavior. Restraining him in a stroller would not alleviate the behavior problem caused by poor eyesight. There simply is not a cause and effect connection. Second, it was mentioned that petitioner has

poor endurance and fatigue might be the cause of his outbursts. That theory is speculative, however. It appears that the primary cause of the outbursts is petitioner's discomfort being in unfamiliar locations among large groups of people.

I cannot speculate how the DHCAA would react to a request for such equipment based upon physical fatigue because the issue was not mentioned in the prior authorization request. A new prior authorization request can be filed, but if so, it would have to adequately show that petitioner needs the stroller due to limited endurance to maintain ambulation. A request based solely on a need to control behavior is insufficient to warrant MA coverage of the stroller.

### **CONCLUSIONS OF LAW**

The DHCAA correctly denied the requested stroller because its sole purpose was to restrain petitioner when he exhibited difficult behavior.

**THEREFORE, it is**

**ORDERED**

That the petition for review herein be and the same is hereby 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, 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 Madison,  
Wisconsin, this 29th day of October, 2012

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Brian C. Schneider  
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 October 29, 2012.

Division of Health Care Access And Accountability