



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

MPA/144824

PRELIMINARY RECITALS

Pursuant to a petition filed October 25, 2012, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Office of the Inspector General ["OIG"] in regard to Medical Assistance, a Hearing was held via telephone on November 21, 2012.

The issue for determination is whether petitioner is eligible for payment by the Medical Assistance ["MA"] program for the manual wheelchair and accessories requested in PA # [REDACTED]

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED] (not present at November 21, 2012 Hearing)

[REDACTED]

Represented by:

[REDACTED], petitioner's mother

[REDACTED]

Respondent:

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

By: Mary Chucka, OTR, OIG Therapies Consultant [Ms. Chucka did not appear at the November 21, 2012 Hearing, but submitted a letter dated November 12, 2012 with an attachment (Exhibit #2)].

Office of the Inspector General
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Outagamie County.
2. Petitioner (age 6 years) has diagnoses of Autism, seizure disorders, Oppositional Defiant Disorder ["ODD"], hearing impairment, Attention Deficit Hyperactivity Disorder ["ADHD"], and Pervasive Developmental Disorder ["PDD"] Not Otherwise Specified ["NOS"]; he is 3 foot 3½ inches tall and weighs 50 pounds. Exhibits #1 & #2.
3. On August 13, 2012 petitioner's provider, Reliant Rehab of Appleton, Wisconsin, requested prior authorization (P.A. # [REDACTED] dated August 13, 2012) for MA coverage of a new manual wheelchair with various accessories (including shoulder harness/straps) for petitioner at a total cost of \$2,084.00. Exhibit #2.
4. On October 5, 2012 OIG denied PA request # [REDACTED] OIG sent petitioner a letter dated October 5, 2012 and entitled *BadgerCare Plus Notice of Appeal Rights* informing petitioner of the denial. Exhibits #1 & #2.
5. Petitioner is able to walk with no restrictions; he can walk for mobility and transfer himself; the wheelchair is requested for the purpose of controlling petitioner for safety purposes; petitioner is a flight risk (he may also sometimes sits down and not want to move); he will run outside (sometimes into the road) or destroy property; if petitioner is not restrained while in a store he will run all over the store, up and down the aisles. Exhibits #1 & #2.

DISCUSSION

By law, MA pays only for medically necessary and appropriate health care services when provided to currently eligible MA recipients. Wis. Admin. Code §§ DHS 107.01(1) & 107.16(1) (May 2009); See also, Wis. Stat. §§ 49.46(2) & 49.47(6)(a) (2009-10). In this case the requested wheelchair is needed for safety, not due to any physical limitation of petitioner's. Petitioner's mother acknowledges this.

Safety equipment is not cover by MA. See, *Wisconsin Medicaid and BadgerCare Update*; September 2004; No. 2004-75, attachment entitled *Noncovered Durable Medical Equipment and Services* [Exhibit #2 (attachment)]; see also, Wis. Admin. Code § DHS 108.02(4) (May 2010). Therefore, petitioner is not eligible for payment by MA for the manual wheelchair and accessories requested in PA # [REDACTED]

CONCLUSIONS OF LAW

For the reasons discussed above, petitioner is not eligible for payment by MA for the manual wheelchair and accessories requested in PA # [REDACTED]

NOW, 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

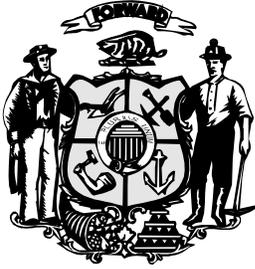
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

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 4th day of December, 2012

\sSean P. Maloney
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

David H. Schwarz
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 December 4, 2012.

Division of Health Care Access And Accountability