



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

MPA/145758

PRELIMINARY RECITALS

Pursuant to a petition filed December 4, 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 (Division or DHCAA) in regard to Medical Assistance (MA), a hearing was held on February 4, 2013, by telephone.

The issue for determination is whether the Division correctly denied a prior authorization request for a \$4,889 flex walk system for the petitioner.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

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

By written submission of:

Pamela Hoffman, PT, DPT, MS

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

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Langlade County. She is certified for MA.

2. On October 23, 2012, a prior authorization request (#...170) was submitted on the petitioner’s behalf for a flex walk foot system. On October 31, 2012, the Division issued a written notice to the petitioner that denied the flex walk foot system.
3. The Division’s basis for denial was that the medical necessity and cost-effectiveness of the particular foot requested was not adequately documented.
4. The petitioner, age 47, lives alone and is described by her physician as having good strength and coordination. Her left leg was amputated below the knee in October 2010. She has had a prosthetic since that time, but requires a new prosthetic foot. She is a diabetic, and has had her right great toe amputated. The provider physician stated in the authorization request that the petitioner lives in a rural setting, with uneven terrain, and that the flexible arch system would allow her to ambulate in this setting. However, the petitioner, per her testimony, resides in the [REDACTED], where paved sidewalks and streets are available.
5. The petitioner’s physician recommended a flex-walk foot system costing \$4,889. This system is a high-end prosthetic running foot that can store and release energy. The standard foot on a prosthesis is admittedly not very responsive for walking. However, the Division has consistently asserted in this type of case that less expensive alter native feet can meet the petitioner’s needs. Specifically, the Division has referred to the flexible keel foot (\$232), the multiaxial ankle/foot (\$252), or the energy storing foot (Seattle Carbon Copy II or equal, \$479).

DISCUSSION

Prosthetic limbs are items of durable medical equipment that can be paid for by MA if prior authorization is obtained. Wis. Admin. Code § HFS 107.24(2)(c)7,(3). In determining whether to grant prior authorization, the Division must apply the generic prior authorization criteria found at Wis. Admin. Code § HFS 107.02(3)(e). The Division relied on two of the generic prior authorization code criteria in rejecting the instant prior authorization request:

HFS 107.02 General limitations .

...

(3) PRIOR AUTHORIZATION .

...

(e) Departmental review criteria. In determining whether to approve or disapprove a request for prior authorization, the department shall consider:

1. The medical necessity of the service; ...
6. The extent to which less expensive alternative services are available;

...

Wis. Admin. Code §HFS 107.02(3)(e)1,6. See also, *MA Prior Authorization Guidelines Manual*, Volume III, §140..013.01 *et seq.*

The Division agrees that that the petitioner should have a prosthetic for her leg. However, DHCAA argues that the provider has not submitted information to establish that the flex walk foot system is a medical necessity for the petitioner. The petitioner did not identify a purely medical reason for needing this specific, costly type of foot, and no further evidence was submitted from a medical provider in support of

the request. Other less expensive alternatives are available. Thus, denial of the flex walk foot system was correct. The petitioner's provider is free to submit a new prior authorization request for a less expense system at any time.

CONCLUSIONS OF LAW

1. The Division correctly denied the request for a flex walk system, as the medical necessity for, and that cost-effectiveness of, that type of foot has not been shown.

THEREFORE, it is

ORDERED

That the petition 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 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 8th day of February, 2013

\sNancy J. Gagnon
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 February 8, 2013.

Division of Health Care Access And Accountability