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

In the Matter of

[REDACTED]

DECISION

MPA/146069

PRELIMINARY RECITALS

Pursuant to a petition filed December 18, 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 ["MA"], a Hearing was held via telephone on February 05, 2013.

The issue for determination is whether petitioner is eligible for payment by MA for the following power wheelchair accessories requested in PA # [REDACTED]: power tilt system, headrest pad, headrest hardware, and egg switch mount.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

[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 February 5, 2013 Hearing, but submitted a letter dated January 3, 2013 with attachments (Exhibit #1)].

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

OTHER PERSON PRESENT:

[REDACTED], petitioner's daughter-in-law

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (age 63 years) is a resident of Milwaukee County.
2. Petitioner has diagnoses of hyperlipidemia, hypertension, osteoarthritis, migraine headache, tremor, colon polyp, bipolar affective disorder, cellulitis, infection of the skin and subcutaneous tissue, diabetes mellitus, bronchitis, asthma, and Congestive Heart Failure ["CHF"]. Exhibit #1.
3. Petitioner's provider, Knueppel Healthcare Services of West Allis, Wisconsin, requested prior authorization (P.A. # [REDACTED] dated November 15, 2012) for MA coverage of a new power wheelchair with various accessories for petitioner at a total cost of \$12,081.00; the accessories included a power tilt system (\$4,590.00), headrest pad (\$225.00), headrest hardware (\$280.00), and egg switch mount (\$156.00). Exhibit #1.
4. OIG modified PA request # [REDACTED] by granting PA for the power wheelchair and all the various accessories except the following: power tilt system (\$4,590.00), headrest pad (\$225.00), headrest hardware (\$280.00), and egg switch mount (\$156.00); OIG denied PA for the power tilt system, headrest pad, headrest hardware, and egg switch mount; OIG sent petitioner a letter dated December 4, 2012 and entitled *BadgerCare Plus Notice of Appeal Rights* informing petitioner of the modification. Exhibit #1.
5. The power tilt system is requested to allow petitioner to perform independent pressure relief maneuvers; the headrest pad is requested to support petitioner's head and neck when in the tilt position; the headrest hardware is requested to attach/mount and properly position the headrest pad on the wheelchair; the egg switch mount is requested to allow an egg switch to be added to the wheelchair.
6. According to the *Justification for Equipment* prepared dated September 24, 2012 petitioner "can take pressure off her bottom and transfer it to her back;" according to the *Proposal for Custom Durable Medical Equipment* dated September 14, 2012 petitioner "is able to transfer independently using a stand pivot transfer, but balance at times becomes an issue."
7. Petitioner has a health care aide come to her home to help with bathing, dressing, toileting, and grooming; her daughter-in-law comes during the week to assist.
8. An egg switch is not included as part of the request in P.A. # [REDACTED] (although it is included in the November 8, 2012 *Physician's Order*); no explanation has been provided of what an egg switch is or why it is needed by petitioner.

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) (2011-12). In order for a service to be *medically necessary* it must meet several specific requirements. See, Wis. Admin. Code § DHS 101.03(96m) (December 2008). One of the specific requirements for *medical necessity* is that the requested service must be required to prevent, identify, or treat a recipient's illness, injury, or disability. Wis. Admin. Code § DHS 101.03(96m)(a) (December 2008). When considering a request for PA the medical necessity of the service and the appropriateness of the service must be considered. Wis. Admin. Code §§ DHS 107.02(3)(e)1. & 2. (May 2009). As with any eligibility denial, the burden is on petitioner to show that she is eligible for the requested services. *Lavine v. Milne*, 424 U.S. 577, 583-584 (1976). Petitioner has failed to show that the requested power tilt system, headrest pad, headrest hardware, and egg switch mount are medically necessary.

The power tilt system is requested to allow petitioner to perform independent pressure relief maneuvers. It is not understood why a power tilt system is necessary to achieve this purpose. The documentation in the record of this matter shows that petitioner can take pressure off her bottom and transfer it to her back. It also shows that petitioner is able to transfer independently using a stand pivot transfer (although balance at times becomes an issue). Furthermore, petitioner has a health care aide come to her home to help with bathing, dressing, toileting, and grooming and her daughter-in-law comes during the week to assist. Thus, petitioner should be able to perform pressure relief maneuvers without the need of a power tilt system. Petitioner claims that her sitting tolerance in a chair that sits straight up is becoming less lately and that, if she had power tilt, she would be able to change position independently in her wheelchair. However, the documentation in the record of this matter is that petitioner can perform independent pressure relief maneuvers without the need of a power tilt system.

The headrest pad is requested to support petitioner's head and neck when in the tilt position. The headrest hardware is requested to attach/mount and properly position the headrest pad on the wheelchair. Thus, if the power tilt system cannot be approved then the headrest pad and the headrest hardware also cannot be approved.

Finally, the egg switch mount is requested to allow an egg switch to be added to the wheelchair. However, an egg switch is not included as part of the PA request. Further, no explanation has been provided of what an egg switch is or why it is needed by petitioner. Thus, the requested egg switch mount also cannot be approved.

CONCLUSIONS OF LAW

For the reasons discussed above, petitioner is not eligible for payment by for the following power wheelchair accessories requested in PA # [REDACTED]: power tilt system, headrest pad, headrest hardware, and egg switch mount.

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 18th day of February, 2013

\sSean P. Maloney
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 18, 2013.

Division of Health Care Access And Accountability