



FH
[REDACTED]

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

In the Matter of

[REDACTED]

DECISION

MPA/146162

PRELIMINARY RECITALS

Pursuant to a petition filed December 21, 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 foot orthotics, a hearing was held on February 13, 2013, by telephone.

The issue for determination is whether MA rules allow purchase of orthotics in petitioner's situation.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

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

By: Written submission of Pamela J. Hoffman, PT Consultant

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County who receives MA.
2. Petitioner has pes planovalgus (flat feet) and, at the time of the PA request, a 20 degree bunion on the right foot and a 15 degree bunion on the left foot. One of the bunions was surgically removed in the meantime.
3. On November 27, 2012, Morfey's Limbs and Braces requested prior authorization for foot inserts for petitioner, PA no. [REDACTED]. By a letter dated December 16, 2012, the DHCAA denied the request.

DISCUSSION

The DHCAA may only reimburse providers for medically necessary and appropriate health care services and equipment listed in Wis. Stat., §§ 49.46(2) and 49.47(6)(a), as implemented by the Wisconsin Administrative Code, chapter DHS 107.

The administrative code provision governing durable medical equipment provides, in relevant part, as follows:

DHS 107.24. Durable Medical Equipment and Supplies . . .

(2) COVERED SERVICES . . . (c) Categories of durable medical equipment. The following are categories of durable medical equipment covered by MA: ...

2. Orthopedic and corrective shoes. These are any shoes attached to a brace for prosthesis
3. Orthoses. These are devices which limit or assist motion of any segment of the human body. They are designed to stabilize a weakened part or correct a structural problem. Examples are arm braces and leg braces....

(4) OTHER LIMITATIONS . . .

- (f) Orthopedic or corrective shoes or foot orthoses shall be provided only for postsurgery conditions, gross foot deformities, or when attached to a brace or a bar. These conditions shall be described in the prior authorization request

(5) NON-COVERED SERVICES. The following services are not covered services:

- (a) Foot orthoses or orthopedic or corrective shoes for the following conditions:
1. Flattened arches, regardless of the underlying pathology;
 2. Incomplete dislocation or subluxation metatarsalgia with no associated deformities;
 3. Arthritis with no associated deformities; and,
 4. Hypoallergenic conditions....

Under MA rules orthotics can be covered only for postsurgery conditions or gross foot deformities. Petitioner's condition is not of that type (if she has a post-surgery condition now a new prior authorization request can be filed, but at this point there is not enough information to make a ruling on her current condition following the surgery). Petitioner's primary condition is flat feet, and by law MA cannot cover the inserts for that condition. Also by policy the bunions are not enough to be considered gross foot deformities as the Department requires at least a 35 degree malformation. There is no exception written into the rules, so I must conclude that the denial of the foot inserts was correct.

CONCLUSIONS OF LAW

The DHCAA correctly denied the request for foot inserts because petitioner's condition did not meet the MA criteria for coverage.

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 15th day of February, 2013

\sBrian 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 February 15, 2013.

Division of Health Care Access And Accountability