



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

In the Matter of

[REDACTED]

DECISION

MPA/146548

PRELIMINARY RECITALS

Pursuant to a petition filed January 09, 2013, 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 in regard to Medical Assistance, a hearing was held on February 18, 2013, at Ashland, Wisconsin.

The issue for determination is whether the petitioner is entitled to medical assistance reimbursement for foot orthotics.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

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

By: Pamela Hoffman

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

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner is a resident of Ashland County.

2. The petitioner requested foot orthotics costing \$815.90 on November 21, 2012. The Division of Health Care Access and Accountability denied the request on November 29, 2012.
3. The request indicates that the requested orthotics “are to prevent any foot deformity” and that he has “pes planovalgus,” the Latin term for “flat feet.” The request did not document any foot deformity.

DISCUSSION

The Division of Health Care Access and Accountability denied the petitioner’s request for foot orthotics . Section DHS 107.24(4)(f) of the Wisconsin Administrative Code states:

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

Medical assistance regulations specifically prohibit coverage of foot orthoses for “[f]lattened arches, *regardless of the underlying pathology.*” Wis. Adm. Code, § DHS 107.24(5)(a)1.

The petitioner’s mother indicates that he has significant foot pain and that the medical assistance program has approved foot orthotics for him in the past. He has changed providers recently, so perhaps the earlier request included information not found in this current one, which is sketchy. It indicates that his only diagnosis is “pes planovalgus,” the Latin term for “flat feet” and that the orthotics “are to prevent any foot deformity.” Given that it states that the orthotics are to “prevent” a foot deformity and does not list a current deformity, it implies that a deformity does not currently exist. I assume that the requested orthotics would alleviate the petitioner’s foot problems, but I am bound by the medical assistance rules. Those rules clearly state that where the underlying condition is flat feet and the request itself does not document any of the conditions listed in Wis. Adm. Code, § DHS 107.24(5)(a)1, medical assistance does not cover orthotics.

CONCLUSIONS OF LAW

The requested foot orthotics are not medically necessary.

THEREFORE, it is **ORDERED**

The petitioner's appeal 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 18th day of February, 2013

\sMichael D. O'Brien
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