



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

MPA/146647

PRELIMINARY RECITALS

Pursuant to a petition filed January 16, 2013, 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 a stander, a hearing was held on February 21, 2013, by telephone.

The issue for determination is whether the criteria for purchase of a stander were met.

PARTIES IN INTEREST:

Petitioner:



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 is a 19-month-old resident of Walworth County who receives MA.
2. Petitioner has Rhizomelic Chondrodysplasia with low muscle tone in his trunk and cervical area, lack of head control, hip and knee contractures that limit good posture in supported sit.
3. On December 16, 2012, National Seating and Mobility requested prior authorization for a stander with components for petitioner at a cost of \$5,597, PA no. 5123510003. By a letter dated January 3, 2013, the DHCAA denied the request.
4. The purpose of the stander stated in the request was to improve petitioner's respiratory support, stretch his joint contractures, improve bone density, and provide a better chance to play and

interact with family members. The eventual plan is to work with petitioner on transfers and possible ambulation.

DISCUSSION

For a piece of medical equipment, or a component of the equipment, to be covered by MA, it must be medically necessary. Wis. Admin. Code, §DHS 107.02(3)(e)1. Equipment is not medically necessary if it is solely for the convenience of the recipient, or if there are less costly alternatives available. Admin. Code, §DHS 101.03(96m)(b)7 and 8. In addition, Wis. Admin. Code, §DHS 107.24(2)(c)6 requires physical therapy equipment be used to “assist a disabled person to achieve independence in performing daily activities.” “Activities of daily living” are defined as “activities relating to the performance of self-care, work and leisure or play activities, including dressing, feeding or eating, grooming, mobility and object manipulation.” Wis. Admin. Code, §DHS 101.03(3). Transfers and ambulation are considered to be activities of daily living under that definition.

The PA request must show that the person is in an active therapy program that includes specific and measurable goals for significant improvement expected in the areas of standing pivot transfers and/or ambulation. MA Provider Handbook, Durable Medical Equipment, Topic #1851. A stander will be denied if the intended use is solely to stimulate bone growth, muscle strength, respiratory, bowel, and bladder function, or to decrease spasticity. There typically must be evidence of head and trunk control that would allow the person to participate in a program leading to transfers/ambulation.

At this point petitioner is not in such a program and does not appear to have developed head and trunk control. As Ms. Abels notes in her February 13, 2013 submission, it is hoped that petitioner will be able to begin such a program in the future, but for a stander to be covered by MA, he must be in such a program now. I therefore must uphold the DHCAA’s denial.

CONCLUSIONS OF LAW

The DHCAA correctly denied a stander for petitioner because he is not in a therapy program with specific and measurable goals in the areas of transfers or ambulation.

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 1st day of March, 2013

\sBrian C. Schneider
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 March 1, 2013.

Division of Health Care Access And Accountability