



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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/147460

PRELIMINARY RECITALS

Pursuant to a petition filed February 20, 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 April 18, 2013, at West Bend, Wisconsin.

The issue for determination is whether the agency properly denied the Petitioner's request for Prior Authorization (PA) for a stander at a cost of \$5,810.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]
[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:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Washington County.

2. On January 29, 2013, a PA request was submitted on behalf of the Petitioner for a stander at a cost of \$5,810.
3. Petitioner is 14 years old. Her primary diagnosis is cerebral palsy. She is dependent on others for transitions and positioning activities of daily living. She is accompanied by a private duty nurse at all times in school.
4. Petitioner has outgrown her current stander. She was using a stander 60 minutes/day at school. She does not use the stander for pivot transfers or for ambulation.
5. On January 31, 2013, the agency denied the Petitioner's PA request.
6. On February 20, 2013, the Petitioner filed an appeal with the Division of Hearings and Appeals.

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.

There is no question that a stander would be beneficial to Petitioner. However, the Wisconsin Administrative Code requires that the stander be utilized to assist the person to achieve independence in activities of daily living. The department has interpreted that requirement to mean that the person must be in an active program with goals for improvement in transfers and/or ambulation, the two activities of daily living that a stander could improve. Petitioner is currently in a physical therapy program. However, there is no goal or expectation that the Petitioner will ambulate or will be able to perform pivot transfers. It is requested specifically to help with muscle tightness, spasticity, bone strength and to prevent foot dropping and slow scoliosis. Based on the regulations, I must find that the agency correctly denied the requested stander.

CONCLUSIONS OF LAW

The agency properly denied the PA request for a stander.

THEREFORE, it is

ORDERED

That the petition be, and hereby 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 Milwaukee,
Wisconsin, this 21st day of May, 2013

\sDebra Bursinger
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 May 21, 2013.

Division of Health Care Access And Accountability