



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

In the Matter of

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

DECISION

MPA/149519

PRELIMINARY RECITALS

Pursuant to a petition filed May 21, 2013, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Department of Health Services in regard to Medical Assistance, a hearing was held on June 26, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether a prior authorization request for Medicaid payment for supramalleolar orthotics (SMO) meets the standards necessary for Medicaid payment.

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 J. Hoffman, PT, DPT, MS
DHS-OIG
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Milwaukee County.

2. A prior authorization (PA) request, dated April 2, 2013, was filed with the Wisconsin Medicaid program on behalf of Petitioner. The request sought Medicaid payment for SMOs at a cost of \$815.90.
3. Petitioner is 3 years old (DOB 11/16/09). The PA lists her diagnoses as congenital valgus foot deformity OT.
4. This prior authorization request was denied. The reason for the denial is that the PA was written so as to indicate that the requested SMOs were for a flat foot condition and the Department indicates that the Wisconsin Medicaid law does not permit Medicaid payment for foot orthotics for flattened arches and there is lack of documentation of a gross foot deformity, leg length discrepancy of a half-inch or more, or the need for a mismatched shoe or shoe attached to a brace or bar.

DISCUSSION

As with most insurance programs the Medicaid program has limits to coverage. Those limits, as to the request here, are described in the Wisconsin Administrative Code:

(4) OTHER LIMITATIONS.

...

(f) 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.

...

(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;

...

Wis. Admin. Code, §§ DHS, 107.24(4)(f) and (5).

Petitioner's mother argues that the provider mismeasured Petitioner's feet when making SMOs in April 2012 and refuses to correct the problem and instead is filing a new PA. A physical therapist working with Petitioner through her school IEP notes that it may be a mismeasurement issue but allows that it could be a growth issue.

I have reviewed the prior authorization submission. Exhibit #2. It is apparent that the SMOs Petitioner currently has cause discomfort at best. Nonetheless, the available documentation from the provider indicates that this is a flat foot problem. The Department is correct. It does not indicate that this is a post-surgery condition or that the orthotics would be attached to a brace or bar. There is no indication of gross deformity of the nature necessary for meeting the standards just detailed above. This falls short of demonstrating that the requested orthotics fall within the category of orthotics which the Medicaid program may pay for and I am sustaining the denial.

Finally, I do want to reiterate a suggestion by the Department that a PA be submitted to the Wisconsin Health Check Program.

The provider will not receive a copy of this Decision. If Petitioner wishes the provider to have a copy, Petitioner must provide a copy to the provider.

CONCLUSIONS OF LAW

That this prior authorization request for supramalleolar orthotics (SMO) was correctly denied as the PA does not demonstrate that Petitioner's conditions meet the standards necessary for Wisconsin Medicaid program payment for requested orthotics.

THEREFORE, it is

ORDERED

That this 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 Milwaukee,
Wisconsin, this 15th day of August, 2013

\sDavid D. Fleming
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 August 15, 2013.

Division of Health Care Access And Accountability