



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
c/o [REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/149635

PRELIMINARY RECITALS

Pursuant to a petition filed May 22, 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 June 20, 2013, at New Richmond, Wisconsin.

The issue for determination is whether the petitioner is entitled to medical assistance reimbursement for a Convoid Cruiser CX12 stroller with a manual wheelchair base and accessories.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
c/o [REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Mary Chucka

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 (CARES # [REDACTED]) is a resident of St. Croix County.

2. On April 8, 2013, the petitioner with [REDACTED] [REDACTED] requested a Convaid Cruiser CX12 stroller with a manual wheelchair base and accessories at a cost of \$3,089. The Office of Inspector General denied the request on April 19, 2013.
3. The petitioner is a four-year-old girl diagnosed with severe autism. She cannot speak, has no awareness of safety, and does not follow instructions, but she can walk. She requires constant supervision.
4. The petitioner has outgrown her current stroller.
5. Other methods such as a leash can keep the petitioner safe at less cost than the requested chair.

DISCUSSION

The petitioner requests a stroller with a wheelchair base and accessories for \$3,089. Wheelchairs are a type of durable medical equipment that must be authorized by the Division of Health Care Access and Accountability before the medical assistance program will pay for it. *See Wis. Admin. Code § DHS 107.24*. When determining whether a service is necessary, the Division must review, among other things, the medical necessity of the service, the appropriateness of the service, the cost of the service, the extent to which less expensive alternative services are available, and whether the service is an effective and appropriate use of available services. *Wis. Admin. Code, § DHS 107.02(3)(e)1.,2.,3.,6. and 7.* "Medically necessary" means a medical assistance service under ch. DHS 107 that is:

- (a) Required to prevent, identify or treat a recipient's illness, injury or disability; and
- (b) Meets the following standards:
 1. Is consistent with the recipient's symptoms or with prevention, diagnosis or treatment of the recipient's illness, injury or disability;
 2. Is provided consistent with standards of acceptable quality of care applicable to the type of service, the type of provider, and the setting in which the service is provided;
 3. Is appropriate with regard to generally accepted standards of medical practice;
 4. Is not medically contraindicated with regard to the recipient's diagnoses, the recipient's symptoms or other medically necessary services being provided to the recipient;
 5. Is of proven medical value or usefulness and, consistent with s. HFS 107.035, is not experimental in nature;
 6. Is not duplicative with respect to other services being provided to the recipient;
 7. Is not solely for the convenience of the recipient, the recipient's family, or a provider;
 8. With respect to prior authorization of a service and to other prospective coverage determinations made by the department, is cost-effective compared to an alternative medically necessary service which is reasonably accessible to the recipient; and
 9. Is the most appropriate supply or level of service that can safely and effectively be provided to the recipient.

Wis. Admin. Code, § DHS 101.03(96m).

The medical assistance program does not cover “[s]afety equipment (gait belts, harnesses, vests, alarm systems [sic], wanderguard, medical alert bracelets or other types of monitoring equipment, or fences).” *Wisconsin Medicaid and BadgerCare Update*, No. 2004-75.

The petitioner is a severely autistic four-years-old girl who cannot speak and does not respond to instructions. But she has no trouble moving about, which in this case is why the chair is requested: she bolts from her caregiver, which could cause her to be run over by a car or get lost in a crowd. This means that the purpose of the requested stroller is to provide safety rather than mobility. As such, it is not covered by the Wisconsin Medicaid program. Furthermore, there are much less expensive means to keep

her safe, including a harness. I am aware that she does not like this, but a \$3,089 stroller simply is too expensive for the added comfort and convenience it provides to the petitioner and her parents.

CONCLUSIONS OF LAW

The requested stroller is 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 15th day of July, 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 July 15, 2013.

Division of Health Care Access And Accountability