



STATE OF WISCONSIN  
Division of Hearings and Appeals

In the Matter of

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

DECISION

MPA/151187

PRELIMINARY RECITALS

Pursuant to a petition filed August 07, 2013, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Office of the Inspector General in regard to Medical Assistance, a telephonic hearing was held on September 11, 2013, at Milwaukee, Wisconsin. At the request of petitioner, the record was held open until September 25, 2013 for petitioner’s representative to submit letter and photographs to establish the appropriateness or medical need for the requested medical equipment. Petitioner’s representative failed to submit any new evidence to the Division of Hearings and Appeals (DHA) by September 25, 2013 or even by the date of this Decision.

The issue for determination is whether the Office of the Inspector General correctly denied the petitioner’s prior authorization (PA) request for a customized ventilator bracket, battery tray and U1 battery for the ventilator.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

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

Representative:

[REDACTED], mother  
[REDACTED]  
[REDACTED]

Respondent:

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

By: Mary Chucka, occupational therapy consultant  
Office of the Inspector General  
1 West Wilson Street, Room 272  
P.O. Box 309  
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:

Gary M. Wolkstein  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is a 19 year old resident of Milwaukee County.
2. The petitioner was in an automobile accident in 2002 resulting in a spinal cord injury and quadriplegia. She is ventilator dependent 24 hours per day. The petitioner was approved by the MA program for a new power wheelchair with accessories during 2013 in PA requests # [REDACTED] and # [REDACTED].
3. The MA program approved petitioner's PA request for respiratory/ventilator services for the period of June 24, 2013 through June 23, 2014 per PA request # [REDACTED].
4. The petitioner's medical equipment provider, [REDACTED], Inc., submitted a June 4, 2013 prior authorization (PA) request to the Office of the Inspector General requesting separate approval for a customized ventilator bracket, battery tray and U1 battery for the ventilator at a requested cost of \$744.
5. The OIG denied the PA request for separate medical items because: a) the customized vent bracket, battery tray and third battery are considered part of the equipment necessary for the use of the ventilator, and therefore not separately reimbursable from the complete respiratory service already approved for the petitioner's respiratory/ventilator services for the period of June 24, 2013 through June 23, 2014 per PA request # [REDACTED]; and b) the PA request did not offer sufficient justification to identify why the equipment already provided for the petitioner is not appropriate and effective.
6. The record was held open until September 25, 2013 for petitioner's representative to submit letter and photographs to establish the appropriateness or need for the requested separately billed, medical equipment. Petitioner's representative failed to submit any new evidence to the Division of Hearings and Appeals (DHA) by September 25, 2013 or even by the date of this Decision. See Preliminary Recitals above.

**DISCUSSION**

During the September 11, 2013 hearing, petitioner's mother and representative, [REDACTED], testified that in the past five years, petitioner has grown from 60 to 65 inches tall and from 90 to 105 pounds. However, the hearing record indicates that during 2013 the MA program approved a new power wheelchair with accessories for the petitioner which should have been appropriately sized for the petitioner increased height and weight. Furthermore, OIG indicated correctly that the customized vent bracket, battery tray and third battery are considered part of the equipment necessary for the use of the ventilator, and therefore not separately reimbursable from the complete respiratory service already approved for the petitioner's respiratory/ventilator services for the period of June 24, 2013 through June 23, 2014. Thus, petitioner's representative has not established why the ventilator services and/or the new power W/C would not have met petitioner's equipment needs and/or provided appropriately sized accessories regarding her height or weight to meet her medical needs. As explained in Finding of Fact #5 above, the OIG consultant in her September 3, 2013 summary provided the reasons for the denial of the requested customized ventilator bracket, battery tray and U1 battery for the ventilator.

The PA request included a May 13, 2013 letter by pulmonologist, [REDACTED], MD. In that letter Dr. [REDACTED] confirmed that in order to safely secure the ventilator to the wheelchair, a bracket is required and that while using the wheelchair, the ventilator should be powered by a battery which must be secured to a ventilator tray. However, during the hearing or while the record was held open, petitioner's representative was unable to refute that such equipment should not be billed separately, but instead should have been part of the complete ventilator services or included with the accessories for the new power wheelchair. If the petitioner or her mother is able to obtain new evidence to establish the need for the separately billed items (customized ventilator bracket, battery tray and U1 battery), petitioner may wish to submit a new PA request to the OIG. However, at this time, based upon the evidence in the hearing

record, I conclude that OIG correctly denied the petitioner's prior authorization (PA) request for a customized ventilator bracket, battery tray and U1 battery for the ventilator.

### CONCLUSIONS OF LAW

The Office of the Inspector General (OIG) correctly denied the petitioner's separate prior authorization (PA) request for a customized ventilator bracket, battery tray and U1 battery for the ventilator.

**THEREFORE, it is ORDERED**

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 28th day of October, 2013

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\sGary M. Wolkstein  
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 October 28, 2013.

Division of Health Care Access And Accountability