



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

In the Matter of

██████████
c/o ██████████
██████████
████████████████████

DECISION

MPA/151453

PRELIMINARY RECITALS

Pursuant to a petition filed August 17, 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 medical bed, a hearing was held on September 11, 2013, by telephone.

The issue for determination is whether the requested bed is a covered service under MA.

PARTIES IN INTEREST:

Petitioner:

██████████
c/o ██████████
██████████
████████████████████

Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703
By: Written submission of Mary Chucka, OT Consultant

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a 5-year-old resident of Milwaukee County who receives MA.
2. Petitioner has static idiopathic encephalitis with a seizure disorder. He has no cognizance of danger and has self-injurious behavior. He is 48 inches tall and weighs 60 pounds.
3. On June 28, 2013, United Seating and Mobility requested prior authorization for a Hanna 135 bed with height padding and a 30 degree wedge for a total cost of \$19,216, PA no. ██████████. By a letter dated July 16, 2013, the DHCAA denied the request.
4. The provider used code E1399, which is a durable medical equipment miscellaneous code. Codes specific to this type of bed are not listed in the Department’s list of covered service codes.

DISCUSSION

In determining whether to approve or disapprove a request for prior authorization, the DHCAA is required to consider the following criteria found at Wis. Admin. Code, §DHS 107.02(3)(e):

1. The **medical necessity** of the service;
2. The **appropriateness** of the services;
3. The **cost** of the service; . . .
5. The extent to which **less expensive alternatives** are available; . . .
7. The effective and appropriate use of available services; . . .
9. The limitations imposed by pertinent federal or state statutes, rules, regulations or interpretations including Medicare or private insurance guidelines.

Emphasis added. "Medically necessary" is defined in the administrative code as any MA service under chapter 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; . . .
 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; . . .

Wis. Admin. Code, §DHS 101.03(96m).

For durable medical equipment the Department has created a specific list of service codes for which MA will provide coverage provided that approval criteria are met. As noted in the Office of the Inspector General case summary dated September 3, 2013, any code for which this particular bed would come under is not listed in the covered services. The reason is evident in the promotional page included with the request. This bed is not a medical bed; it is a normal bed with a cage around it. The MA program will pay for medical beds necessary for a disabled person, but it will not pay for a regular bed with essentially a total restraint. See Medicaid and BadgerCare Update no. 2004-75, dated September, 2004, which states that restraints are not covered because they are not medical in nature.

It is evident that the Department would approve a special bed for petitioner. However, it would have to be one that is covered by the program. This bed is not covered.

CONCLUSIONS OF LAW

The DHCAA correctly denied the request for a Hanna 135 bed because it is not among the types of bed listed as covered medical equipment.

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 16th day of September, 2013

\sBrian C. Schneider
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 September 16, 2013.

Division of Health Care Access And Accountability