



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[Redacted]
c/o [Redacted]

DECISION

MPA/152101

PRELIMINARY RECITALS

Pursuant to a petition filed September 11, 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 ["DCHAA"] in regard to Medical Assistance ["MA"], a Hearing was held via telephone on November 14, 2013.

The issue for determination is whether petitioner is eligible for payment by the MA program for the foot orthotics requested in Prior Authorization ["PA"] # [Redacted].

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

[Redacted] (not present at November 14, 2013 Hearing)
c/o [Redacted]

Represented by:

[Redacted], petitioner's mother & legal guardian
[Redacted]

Respondent:

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

By: Pamela J. Hoffman, PT, DPT, MS, Physical Therapy Consultant [Ms. Hoffman did not appear at the November 14, 2013 Hearing, but submitted a letter dated October 23, 2013].

Division of Health Care Access and Accountability
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

### FINDINGS OF FACT

1. Petitioner (26 years old) is a resident of Winnebago County.
2. On August 14, 2013 petitioner's provider, [REDACTED], Inc. of Green Bay, Wisconsin, requested Prior Authorization (PA # [REDACTED] dated August 14, 2013) for MA coverage of for foot orthotics for petitioner at a total cost of \$648.00.
3. On August 28, 2013 DCHAA denied PA request # [REDACTED] for foot orthotics; DCHAA sent petitioner a letter dated August 28, 2013 and entitled *BadgerCare Plus Notice of Appeal Rights* informing petitioner of the denial.
4. Petitioner has diagnoses of right posterior tibial tendonitis, bilateral pes planovalgus deformities (flat feet), and right accessory navicula; on January 13, 2011 he had surgery on his left foot.

### DISCUSSION

Orthopedic or corrective shoes or foot orthoses are covered by MA only for postsurgery conditions, gross deformities, or when attached to a brace or bar. Wis. Admin. Code § DHS 107.24(4)(f) (May 2009); see also, Wis. Admin. Code §§ DHS 107.24(2)(c)2. & 3. (May 2009).

Foot orthoses or orthopedic or corrective shoes are not covered by MA for flattened arches (regardless of the underlying pathology), incomplete dislocation or subluxation metatarsalgia with no associated deformities, arthritis with no associated deformities, or hypoallergenic conditions. Wis. Admin. Code §§ DHS 107.24(5)(a)1.-4. (May 2009).

DCHAA denied PA for the requested foot orthotics.

Petitioner has submitted a letter from his Medical Doctor ["MD"] dated September 24, 2013 stating that he has diagnoses of right posterior tibial tendonitis, bilateral pes planovalgus deformities (flat feet), and right accessory navicula and that on January 13, 2011 he had surgery on his left foot. However, there is nothing in the record of this matter to show which of petitioner's conditions is intended to be treated by the requested foot orthotics and why. Likewise, there is nothing in the record of this matter as to what, if any, postsurgery condition petitioner has that are intended to be treated by the requested foot orthotics. Without this information it is not possible to approve the PA request. As noted above, foot orthotics are not covered by MA for flattened arches.

Petitioner may, if he wishes, have his provider file a new PA with additional documentation that addresses the above deficiencies.

### CONCLUSIONS OF LAW

For the reasons discussed above, petitioner is not eligible for payment by the MA program for the foot orthotics requested in PA # [REDACTED].

**NOW, 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 21st day of November, 2013

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\sSean P. Maloney  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

Brian Hayes, Administrator  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on November 21, 2013.

Division of Health Care Access And Accountability