



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

In the Matter of

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

DECISION

MPA/152182

PRELIMINARY RECITALS

Pursuant to a petition filed September 18, 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 October 28, 2013, at Janesville, Wisconsin.

The issue for determination is whether the Department erred in its denial of the PA request for the Special Tomato Jogger Stroller.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

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

Respondent:

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

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

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Rock County.

2. On June 26, 2013, petitioner's provider requested prior authorization (# [REDACTED]) for a Special Tomato Jogger Stroller at a cost of \$1,356.99 in addition to an orthopedic seat at a cost of \$1,085.
3. The stroller is available for \$549 at Toys-R-Us.
4. The Department denied the request.

DISCUSSION

The Division argues that denial of the instant request was appropriate because the petitioner's mobility needs can be adequately met with a conventional stroller, available for purchase in a retail store (see attachments to ex.#3). When such non-medical items are available at common retail to adequately meet the petitioner's needs, the item is not "medical equipment" and is not a medical necessity. In fact, the record reflects that the specific stroller offered by the provider for \$1,356.99 is also available at Toys-R-Us for \$549. I understand that this would not include the orthopedic seat option offered by the provider for an additional \$1,085. But, nothing offered by the provider or petitioner explains why a public benefit program with limited resources should pay the provider nearly five times what the item costs on the open retail market. Such a purchase is not cost-effective, nor is this a medical necessity as the item is one that is commonly available.

It also appears that the provider attempted to gain approval by coding this as a miscellaneous item E1399. Provider likely did this because the item also would not have been approved under the code for wheelchairs. In this case, it does not matter how it was coded. The item does not meet the criteria for approval.

CONCLUSIONS OF LAW

The item has not been established to be cost-effective or medically necessary as it is available on the retail market at a greatly reduced cost.

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 Madison,
Wisconsin, this 27th day of November, 2013

\sJohn P. Tedesco
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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Madison, WI 53705-5400

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The preceding decision was sent to the following parties on November 27, 2013.

Division of Health Care Access And Accountability