



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

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

DECISION

MPA/153125

PRELIMINARY RECITALS

Pursuant to a petition filed October 24, 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 telephone hearing was held on December 02, 2013.

The issue for determination is whether the petitioner is entitled to medical assistance reimbursement for a manual wheelchair if she already has a power wheelchair.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

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

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

Written Appearance 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:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Wood County.
2. The petitioner has a working power wheelchair.

3. The requested manual wheelchair is meant to back up the petitioner's power wheelchair.

DISCUSSION

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. Adm. 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. Adm. 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. Adm. Code, § DHS 101.03(96m).

The petitioner, a 12 year old with a diagnosis of cerebral palsy, seeks a manual wheelchair. The Division of Health Care Access and Accountability denied the chair because she already has a power wheelchair and it contends that the manual wheelchair would duplicate it.

The Department's written guidelines concerning provision of a second mobility base specifically state that if the recipient owns a power wheelchair as a primary mobility base, then a second mobility base, such as the manual wheelchair requested by the petitioner, is not considered medically necessary. *See, Prior Authorizations Guidelines Manual, §130.S.000.04.*

In addition, the Department has developed a policy definition of when a second wheelchair is a medical necessity. The Wisconsin Medicaid Update, 96-24, dated July 9, 1996, states as follows:

Two Wheelchairs for One Recipient-

If a recipient owns a powered wheelchair, Wisconsin Medicaid may approve the purchase of a manual wheelchair when the provider demonstrates medical necessity for the manual wheelchair. The following examples are *not* considered medically necessary. (101.03(96m), Wis. Admin. Code):

- The powered wheelchair cannot be transported in the family vehicle.
- A physician's office, dentist's office, recipient's home, or school is inaccessible with the powered wheelchair.
- The recipient could more readily socialize by using a manual wheelchair.

Wisconsin Medicaid covers the rental of a wheelchair or wheelchair equipment while a recipient's wheelchair is being repaired.

Duplicate services cannot be approved, e.g., two manual wheelchairs.

Ibid. p.4.

This guideline interprets the administrative code's prohibition of duplicative services and items primarily for convenience and the code's requirement that a service be cost-effective compared to other services available to the recipient. In addition, the Division of Hearings and Appeals has consistently ruled against requests for a second mobility base. While one decision of the Division is not binding upon another, the Division does strive to render consistent opinions.

The petitioner's representatives argued that the power wheelchair often breaks down. This occurred three or four times last year alone, and the longest that the chair was out of service was in excess of one month. The respondent countered that the guidelines provide a more cost effective means of providing a chair when the primary chair has broken down than buying a second chair, which is to allow rental of second chair. The petitioner has not established that a manual wheelchair rental would not be cost-effective solution to the present issue.

In conclusion, although I do not doubt that the petitioner would use the requested chair, I must find that the medical assistance rules do not allow the program to pay for it under the conditions outlined in the prior authorization request. Therefore, I must uphold the Division of Health Care Access and Accountability's denial.

CONCLUSIONS OF LAW

The Division of Health Care Access and Accountability correctly denied the petitioner's request for a manual wheelchair because it is not medically necessary.

THEREFORE, it is

ORDERED

That 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, Room 651, 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 23rd day of January, 2014.

\sPeter McCombs
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
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on January 23, 2014.

Division of Health Care Access and Accountability