FH

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[redacted]

DECISION

FCP/154321

PRELIMINARY RECITALS

Pursuant to a petition filed December 20, 2013, under Wis. Admin. Code § DHS 10.55, to review a decision by the Western Wisconsin Cares-FCP ["WWC"] in regard to Medical Assistance ["MA"], a Hearing was held via telephone on January 23, 2014.

The issue for determination is whether, under the MA Family Care Program ["FCP"], WWC must pay for a larger hospital bed for petitioner.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:
Petitioner:

[redacted]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703
By: Jeanne Itzen, Quality Coordinator, WWC
Western Wisconsin Cares-FCP
1210 West 4th Street
P.O. Box 190
Neillsville, Wisconsin
54456-0190

OTHER PERSONS PRESENT:
[redacted], Director, Country Terrace
[redacted], Certified Social Worker, WWC
[redacted], Service Coordination Director
[redacted], Unit Manager, WWC
[redacted], Registered Nurse ["RN"] Case Manager, WWC

ADMINISTRATIVE LAW JUDGE:
Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (55 years old) is a resident of Clark County.

2. Petitioner has Multiple Scoliosis ["MS"], carpal tunnel syndrome, depression, gouty arthritis, hypercholesterolemia, murmur, myelopathy, neurogenic bladder, paresis, paresthesia, restless leg syndrome, sleep apena, venous insufficiency, and is obese (he weighs approximately 341 pounds).

3. In April 2013 WWC purchased a bariatric hospital bed and pressure relief mattress for petitioner with a capacity of 350 to 600 pounds at a cost of approximately $3,874; the bed is 42 inches wide by 80 inches long provides approximately 9 inches on each side between petitioner's body and the rail; petitioner currently uses that bed.

4. On October 20, 2013 petitioner requested a larger hospital bed (60 inches wide) claiming that it would help with his repositioning and comfort; he states that when he is rolled-over his current hospital bed is not wide enough to prevent his arms from hitting the sides.

5. By a *Notice of Action* dated November 6, 2013 WWC denied petitioner's request for a larger hospital bed; following a grievance hearing WWC affirmed the denial by a letter dated December 13, 2013.

6. A larger hospital bed would make providing cares to petitioner more difficult and could cause injury to his caregivers due to the body mechanics of reaching cross the bed (petitioner is dependent for bed mobility and must be turned by staff).

7. Petitioner must be transferred using Hoyer lift; a Hoyer lift will not reach the center of a 60 inch wide bed.

8. If needed, pillows can be placed in petitioner's current bed to prevent his arms from hitting the sides.

DISCUSSION

FCP is available to eligible persons only through enrollment in a Care Management Organization ["CMO"] under contract with the Wisconsin Department of Health Services ["DHS"]. Wis. Admin. Code § DHS 10.41(1) (November 2009). A person may be eligible for FCP, but yet not entitled to enroll in a CMO. Wis. Admin. Code § DHS 10.36(1) (November 2009). A person who is found eligible for FCP but who does not meet certain conditions is not entitled to FCP benefits. Wis. Admin. Code § DHS 10.36(3) (November 2009). Such persons may pay privately for CMO services. Wis. Admin. Code §§ DHS 10.36(3) & 10.37 (November 2009).

In this case petitioner is eligible for FCP, is enrolled in a CMO, and is receiving FCP benefits. Petitioner appeals because WWC denied his request that it pay for a larger hospital bed.

Services provided under FCP must be determined through individual assessment of enrollee needs and detailed in an individual service plan unique to each enrollee; services must be cost-effective. Wis.

Admin. Code § DHS 10.41(2) (November 2009). The service plan must reasonably and effectively address all of long-term care needs and utilize all enrollee strengths and informal supports. Wis. Admin. Code § DHS 10.44(2)(f)1. (November 2009). A service plan for an FCP participant must be cost-effective compared to alternative services or supports that could meet the same needs and achieve similar outcomes. Wis. Admin. Code § DHS 10.44(2)(f)3. (November 2009); See also, Wis. Admin. Code § DHS 10.44(2)(f)5.c. (November 2009). Furthermore, the role of a CMO, such as WWC, must include an initial assessment sufficient to provide information necessary to identify safety issues. Wis. Admin. Code § DHS 10.44(2)(d)1. (November 2009). The CMO must comprehensively assess and identify safety issues. Wis. Admin. Code § DHS 10.44(2)(e)1.g. (November 2009).

In this case it is not cost-effective to purchase a larger hospital bed when petitioner already has a relatively new hospital bed that can meets his needs with simple accommodations (the use of pillows). Further, WWC has identified legitimate safety concerns with a larger hospital bed as noted in the above *Findings of Fact*. Therefore, WWC is not required pay for a larger hospital bed for petitioner.

CONCLUSIONS OF LAW

For the reasons discussed above, WWC, under FCP, is not required pay for a larger hospital bed for petitioner.

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, 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 3rd day of February, 2014

\sSean P. Maloney
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 February 3, 2014.

Western Wisconsin Cares-FCP
Office of Family Care Expansion