



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

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

DECISION

MPA/154677

PRELIMINARY RECITALS

Pursuant to a petition filed January 10, 2014, 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 February 18, 2014, at Superior, Wisconsin.

The issue for determination is whether the petitioner is entitled to medical assistance reimbursement for a power wheelchair and accessories.

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, Room 651
Madison, Wisconsin 53703

By: Mary Chucka

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

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner is a resident of Douglas County.

2. On November 7, 2013, the petitioner with National Seating and Mobility requested a power wheelchair with accessories at a cost of \$33,646.20. The chair itself costs \$9,111.20. The requested accessories and their cost are as follows:
- | | |
|---|------------|
| a. Expandable controller | \$973 |
| b. Harness, expandable controller | \$490 |
| c. Manual Swingaway-joystick mount | \$294 |
| d. Power seat tilt | \$7,553 |
| e. Aftermarket back interface | \$280 |
| f. Cushioned headrest | \$198.80 |
| g. Electronic Connect BTW 2 Sys | \$3,325 |
| h. Articulating center mount | \$4,053 |
| i. Manual Swingaway-pelvic thigh brackets | \$700 |
| j. Adaptor Plate for pelvic thigh support mount | \$70 |
| k. Q-Logic joystick | \$980 |
| l. Sealed lead-acid battery | \$826 |
| m. Custom cushion | \$2,233 |
| n. Custom back cushion | \$1,740.20 |
| o. Lateral thoracic hardware | \$315 |
| p. Lateral thoracic pad | \$70 |
3. The Office of Inspector General denied the request on December 19, 2013.
4. The petitioner has been paralyzed on her right side since either 2004 or 1997 from a stroke.
5. The petitioner is 5'5" tall and weighs 273 pounds. She has edema in her legs.
6. The petitioner often leans to her left when she sits in her wheelchair and has fallen out of it because it does not adequately support her. She requires help from staff at her residence to become upright again.
7. The petitioner's bottom hurts when sitting in her current wheelchair because she cannot reposition herself.
8. The petitioner can move about inside her facility in a manual wheelchair. She can move approximately 100 feet in the chair before she becomes too tired. She can continue operating her chair after resting for a minute or less.
9. The cost of alternate accessories is unknown.

DISCUSSION

The petitioner is a 68-year-old woman who has been paralyzed on her left side since suffering a stroke about 10 or more years ago—the documentation indicates it occurred in 2004, but those testifying on the petitioner's behalf state that it occurred in 1997. Regardless of when it occurred, she has required a wheelchair since then to move around. Her first wheelchair was a power wheelchair, but that wore out a couple years ago, and she has used a manual chair since. She now requests a power chair that with various accessories costs \$33,646.20. Those accessories are listed in *Finding of Fact No. 2*.

Power 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. Admin. 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. Admin. Code, § DHS 101.03(96m).

Those testifying on the petitioner's behalf stated that she needs the chair because she has severe edema in her lower extremities, which requires her to recline, and because she tilts sideways, which has led to her falling out of the chair. In addition, they point out that the chair will allow her more independence. These are valid points. The purpose of a power wheelchair (or any durable medical equipment) is to replace the ability to function lost because of a medical condition and assure the recipient as much independence as possible. However, these goals must be consistent with a reasonable cost because medical assistance pays for only basic items.

Before adding accessories, the requested wheelchair costs \$9,111.20. After accessories, it cost \$33,646.20. The requested accessories include an electronic connection costing \$3,325, an adjustable center mount costing \$4,053, a Q-Logic joystick costing \$980, a custom cushion costing \$2,333, and another custom cushion costing \$1,740.20. The petitioner has the burden of proving that these items are necessary. Her request includes little specific information such as measurements of the degree of her sideways tilt concerning her condition. Nor does it explain how she could operate the chair if she is tilted back far enough for it to relieve her edema. The Office of Inspector General indicated that it has found a variety of less expensive items online; this assertion is not very helpful because the Office does not indicate what these items are. Still, in order to meet the requirement that an accessory be cost-effective, when requesting something this expensive, the provider should refer to some less expensive alternatives and be able to explain why they will not adequately alleviate the petitioner's condition.

Finally, it is unclear how much independence the petitioner will gain from this chair. She has a manual wheelchair that she can use to move independently about her nursing home. It is unclear from the record how much any cognitive limitations prevent her from leaving the nursing home without assistance. If someone needs to be by her at all times, the independence provided by the chair is decreased, which makes it less medically useful.

In conclusion, the petitioner is not entitled to the requested chair because she has not shown that it is a cost-effective solution to her alleviate her disability. This does not mean that she cannot obtain a power wheelchair through medical assistance. Rather, it means that she must provide more evidence to justify a chair. If she and her provider submit a new request, they should only request equipment that meets her

basic needs. In addition, they should provide more specific information concerning her medical condition and explain why less expensive equipment will not meet her needs. If the Office of Inspector General denies the request because it is not cost effective and a hearing occurs, it will be expected to provide specific alternatives to the requested equipment.

CONCLUSIONS OF LAW

The Office of Inspector General correctly denied the petitioner's request for a power wheelchair and accessories because she has not proven that the chair is cost-effective and medically necessary.

THEREFORE, it is

ORDERED

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 5th day of March, 2014

\sMichael D. O'Brien
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 March 5, 2014.

Division of Health Care Access and Accountability