FH

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

Redact

Redact

DECISION

MPA/156195

PRELIMINARY RECITALS

Pursuant to a petition filed March 20, 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 July 29, 2014, at Madison, Wisconsin. At the request of petitioner, a Spanish interpreter, Mr. Redact, translated for the petitioner during the hearing. At the request of petitioner, hearings set for May 5, 2014 and June 18, 2014 were rescheduled.

The petitioner is a 19 year old man who was represented by Ms. Redact during the hearing. During that hearing, petitioner requested that the record be held open for documents to be submitted to the Division of Hearings and Appeals, and then for those documents to be sent to the Office of the Inspector General (OIG) for a reconsideration decision with an opportunity for a reply by Ms. Redact.

Ms. Redact sent documents to DHA during August, 2014 which were somehow misplaced, and thus needed to be sent at a later time to Ms. Redact. This Administrative Law Judge (ALJ) sent an October 16, 2014 cover letter to Ms. Redact at the Office of the Inspector General (OIG) a copy of the approximately 20 pages of documents which were received at DHA. In that same letter, this ALJ requested that Mr. Redact review the enclosed documents and letters, and submit a reconsideration summary to me at the Division of Hearings and Appeals by October 27, 2014, with a copy of that reconsideration summary letter to be sent to the petitioner's representative, Red... Redact. The petitioner requested and was granted an opportunity to respond to Ms. Redact's reconsideration summary. Ms. Redact was granted until November 7, 2014 to submit to DHA and OIG her response to Ms. Redact's reconsideration.

Ms. Redact submitted to DHA and Ms. Redact an October 21, 2014 detailed reconsideration letter which explained why the bariatric bed continued to not be approved, but offered alternatives (including extra-wide hospital beds) to meet the petitioner's medical needs. That reconsideration letter with attachments is marked as Exhibit A, and is received into the hearing record. Ms. Redact submitted a November 7, 2014 responsive letter to DHA and OIG regarding OIG's October 21, 2014 based upon the allegations of a medical equipment provider consultant from Redact. Ms. Redact's letter is marked as Exhibit B, and is also received into the hearing record.

The issue for determination is whether the Department correctly denied the petitioner's prior authorization (PA) request for a bariatric hospital bed because not medically necessary or cost effective.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

Redact

Redact

Petitioner's Representative:

Red... Redact, case manager

Redact

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703
By: Redact Redact, therapies consultant
Office of the Inspector General (OIG)
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:
Gary M. Wolkstein
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a 19 year old resident of Dane County.
2. The petitioner is 5 feet 7 inches tall and weighs about 145 pounds.
3. The petitioner is diagnosed with spinal muscular atrophy type III, neuromuscular scoliosis, contracture of multiple joints, vitamin D deficiency, and carnitine deficiency.
4. The petitioner received a 35 inch wide semi-electric hospital bed as of about February, 2009.
5. The petitioner attends college on weekdays.
6. The petitioner receives a total of about 13.25 hours per week of personal care worker (PCW) assistance.
7. The petitioner's medical equipment provider, Redact, submitted on or about February, 2014 a prior authorization (PA) request on behalf of petitioner for a bariatric hospital bed with a weight limit of 600 pounds at a requested cost of $8,863.92. At the time of that PA request, petitioner's weight was 145 pounds.
8. In his March 14, 2014 letter regarding petitioner, Dr. Redact, MD stated in pertinent part: "Redact needs frequent positioning changes and turning side-to-side to help alleviate pressure sores. In his current bed, Redact's knees hit the side rails when being turned creating pressure areas at the knees. His position in the bed may find him pressed up against the side rails as well. He is unable to elevate the head of the bed. Due to medical necessity, Redact needs to be in a bed that can accommodate frequent position changes in side-lying. We request an auto-tilt power motor to elevate the HOB due to reflux and respiratory issues. We request a push button adjust for the foot of the bed to control edema and circulatory issues, and to aid in activities of daily living. Currently, Redact has a stand-sized bed. We request a full sized, 48" by 80" bed with adjustable height and adjustable head and foot." See Exhibit 4.

9. The Department sent a March 4, 2014 notice to the petitioner denying his PA request for a bariatric bed because the PA request did not include sufficient information to justify that the requested hospital bed was medically necessary for the petitioner, and why a new bariatric hospital bed is being requested to replace his current 2009 hospital bed. See Exhibit 1.

10. In her October 21, 2014 reconsideration, OIG consultant, Redact Redact confirmed the central issue in this case was the width of the bed and that OIG does not contest that the petitioner needs to be able to operate the bed independently or that he requires both head and foot elevation. However, OIG correctly asserted that petitioner's weight (about 140 pounds) does not require a bariatric bed which is made for persons with a weight capacity of 600 pounds, when petitioner actually only needs the extra-wide bed with variable height controls. As a result, OIG dispute the medical necessity of a heavy-duty bariatric hospital bed for petitioner as not medically necessary or cost effective. See Exhibit A.

11. In that same October 21, 2014 reconsideration letter, Ms. Redact provided attachments of product examples of hi-lo beds which allow full electric control by the user for head of bed and foot of bed elevation and offers a variety of available widths (including extra wide widths). Ms. Redact further generously offered that: " . . .The OIG is available to discuss this case with the member's case manager if it is felt that discussion would expedite this case so the member may receive equipment to meet his needs.' See Exhibit A and above Preliminary Recitals.

12. Ms. Redact submitted a November 7, 2014 responsive letter to DHA regarding OIG's October 21, 2014 based upon the questionable allegations of a medical equipment provider consultant (Redact Redact) at Redact. See Exhibit B. Ms. Redact alleged various reasons for why Ms. Redact's three different beds with adjustable feature and extra-wide widths were not possible MA paid alternatives for the petitioner.

DISCUSSION

The Division may only reimburse providers for medically necessary and appropriate health care services and equipment listed in Wis. Stat. §§ 49.46(2) and 49.47(6)(a), as implemented by Wis. Admin. Code ch. HFS 107. Some services and equipment are covered if a prior authorization request is submitted and approved by the Division in advance of receiving the service. Finally, some services and equipment are never covered by the MA program. The requested heavy-duty, extra wide hospital bed in this case is covered by the MA program when certain eligibility criteria are met. The Division found that the applicable criteria were not met and was therefore unable to approve the requested equipment.

In-home hospital beds can be covered by the MA program, subject to prior authorization requirements. Wis. Admin. Code §DHS 107.24(2)(c)4. Those criteria include requirements that the requested equipment be a medical necessity. In reviewing a prior authorization request for medical equipment, the Division must utilize the criteria found in Wis. Admin. Code § DHS 107.02(3)(e). It is the provider's responsibility to justify the need for the equipment requested. Wis. Admin. Code § DHS 107.02(3)(d)6.

In this case, the provider justified the medical need for the hospital bed by listing the diagnosis given above, and stating that the petitioner must change positions in bed so as not to relieve pressure on his skin and not develop ulcerations. The petitioner is unable to reposition on his own and so a caregiver (petitioner's mother) must turn him while he is on the bed. The rationale for seeking a heavy-duty, extra-wide hospital bed was there is insufficient room for the caregiver to roll the petitioner over without also hurting her own back. The requested extra-wide bed would give her enough room to roll the petitioner over. See Finding of Fact #8 above.

The requested bariatric bed has a weight limit of 600 pounds, when the petitioner's weight was and continues to be about 145 pounds. The Division's consultant, Redact Redact, correctly notes that the petitioner weighs far less that the 600 pounds that the requested bed was designed to hold. Thus, the cost of a bed with that weight limit is not medically necessary. The petitioner's representative alleged at the hearing (and in her November 7, 2014 response) that they cannot find a bed that has the extra width with the hi-low feature, but also with the weight limit of a normal bed of about 350 pounds. Because I am unable to research whether there is such a bed available, I will not find that I totally agree with Ms. Redact on this point. However, I will state that it appears to me that the requested bed is not medically necessary given its additional bariatric (weight) cost for a feature that is clearly not necessary.

As indicated in Findings of Fact #10 and #11 above, OIG does not contest that the petitioner needs to be able to operate the bed independently or that he requires both head and foot elevation. However, OIG correctly asserted that petitioner's weight (about 145 pounds) does not require a bariatric bed which is made for persons with a weight capacity of 600 pounds, when petitioner actually only needs the extra-wide bed with variable height and foot controls. As a result, OIG correctly disputed the medical necessity of a heavy-duty bariatric hospital bed for petitioner as not medically necessary or cost effective. However, Ms. Redact also provided attachments of product examples of hi-lo beds which allow full electric control by the user for head of bed and foot of bed elevation and offers a variety of available widths (including extra wide widths).

This case seemed ripe for the reasonable, medically appropriate and cost effective selection of a hospital bed for the petitioner. However, Ms. Redact in her November 7, 2014 responsive letter to DHA alleged (seemingly based solely upon medical equipment provider consultant (Redact Redact) at Redact) that Ms. Redact's three proposed different beds with adjustable features and extra-wide widths were not possible MA paid alternatives for the petitioner. I do not find the sole opinion of a medical equipment provider to be sufficient conclusive, reliable evidence that only a bariatric bed will provide the medically needed extra-wide feature needed by the petitioner.

Ms. Redact appears to be a zealous advocate for the petitioner who is sincerely attempting to help him receive the appropriate bed for his medical problems. Ms. Redact suggested in pertinent part of her October 21, 2014 reconsideration that: ". . The OIG is available to discuss this case with the member's case manager if it is felt that discussion would expedite this case so the member may receive equipment to meet his needs." I suggest that Ms. Redact directly contact Ms. Redact to discuss specifically the hospital bed options for the petitioner which would be paid by Medicaid, and select a bed that OIG can promptly approve with a new PA request to Ms. Redact. After receipt of such mutually agreed-upon alternative hospital bed, OIG should promptly process and approve the PA so that petitioner can receive the hospital bed that the hearing record clearly indicates he medically needs. However, based upon the hearing record for the current bariatric bed, I must conclude that the Department correctly denied the petitioner's prior authorization (PA) request for a bariatric hospital bed because such bed is not medically necessary or cost effective.

CONCLUSIONS OF LAW

The Department correctly denied the petitioner's prior authorization (PA) request for a bariatric hospital bed because not medically necessary or cost effective.

THEREFORE, it is **ORDERED**

The petition for review herein be and the same is hereby Dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision.** Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or 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 filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 15th day of December, 2014.

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\sGary M. Wolkstein
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 December 15, 2014.

Division of Health Care Access and Accountability

Redact