



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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/156639

PRELIMINARY RECITALS

Pursuant to a petition filed April 04, 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 (DHCAA or Division) in regard to Medical Assistance (MA), a hearing was held on May 22, 2014, by telephone.

The issue for determination is whether the Division correctly denied a prior authorization request for a RAZ-SP rehab shower commode chair.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
By: [REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By written submission of: 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:

Nancy J. Gagnon
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Dodge County. She is certified for MA.

2. On March 3, 2014, a prior authorization request (#... [REDACTED]) was submitted on the petitioner's behalf for an RAZ-SP rehab shower commode chair. The cost of the chair, which included an adjustable back and chest belt, was \$4,616. The Division issued written notice of denial on March 12, 2014.
3. The Division's basis for denial of the request was that the specific brand/model is not cost-effective.
4. The petitioner, age 16, is diagnosed with cerebral palsy and scoliosis. She has recently gained weight, and now weighs approximately 110 pounds. The petitioner has used a commode chair in the past, but has outgrown it. There is a roll-in shower in her residence.
5. The petitioner requires a new shower commode chair.

DISCUSSION

Shower commode chairs are items of durable medical equipment (DME). Medically necessary home health care DME is covered by the MA program, with many of the DME items requiring prior authorization as a condition of payment:

(2) COVERED SERVICES. ...

(c) Categories of durable medical equipment. The following are categories of durable medical equipment covered by MA:

...

4. Other home health care durable medical equipment. This is medical equipment used in a recipient's home to increase the independence of a disabled person or modify certain disabling conditions. Examples are patient lifts, hospital beds or traction equipment.

...

(3) SERVICES REQUIRING PRIOR AUTHORIZATION. The following services require prior authorization:

(a) Purchase of all items indicated as requiring prior authorization in the Wisconsin DME and medical supplies indices, published periodically and distributed to appropriate providers by the department;

...

Wis. Admin. Code § DHS 107.24(2)(3). In determining whether to grant prior authorization, the Division must apply the generic prior authorization criteria found at Wis. Admin. Code § DHS 107.02(3)(e). The twelve generic prior authorization code criteria include the requirements that the requested equipment be a medical necessity and cost effective when compared to alternative equipment choices.

A shower commode chair is an MA-covered DME item. Per the DME Index, all such chairs require prior authorization. In anticipation of hearing, the Division confirmed that other shower commode chairs are available at a lower cost than the RAZ-SP: an ActiveAid tilt-in space shower commode chair with seat belt for \$2,489; an Invacare shower commode chair for \$755; or an Aquataec tilt-in –space shower chair for \$2,488.

At hearing, the petitioner's mother indicated that she was not wedded to the RAZ-SP; rather, she was advocating for a new shower commode chair that: will fit through a 26"- wide narrow area of the bathroom, has a seat belt, and has side rails/supports. The petitioner has scoliosis, which causes her to lean to the right. She also has "kyphotic-like" posture, which has worsened with recent Baclofen use.

In response to these clarifications, this Judge contacted the Division's occupational therapist, Ms. Chucka, to ask if the less expensive chairs would meet the petitioner's concerns. Ms. Chucka responded with a letter to this Judge and the petitioner, dated May 28, 2014. *See*, Exhibit 3. She noted that the ActiveAid model 285 appeared to meet the petitioner's needs (overall width of 24 ½ ") at a much lower cost than the RAZ-SP. She also opined that the Aquatec Ocean VIP would also be acceptable. Finally, Chucka noted that even the RAZ-SP could have been approved if the provider (National Seating) had filled out the prior authorization form differently. Specifically, if the provider had used a procedure code with an *assigned maximum allowable fee*, the Division might have approved it. That is because (as I understand it), with an assigned maximum allowable fee of approximately \$2,400, that is how much the Division will pay, regardless of brand.

The upshot here is that the Division was correct to deny the submitted prior authorization request due to lack of cost-effectiveness. The petitioner is free to ask her provider to submit a new prior authorization request to the MA program for a different shower commode chair, or a chair that will be reimbursed with the assigned maximum allowable fee.

CONCLUSIONS OF LAW

1. The petitioner has a medical need for a new shower commode chair.
2. The Division correctly denied the petitioner's request for an RAZ-SP shower commode chair due to lack of cost-effectiveness for that model in comparison to other shower commode chairs.

THEREFORE, it is

ORDERED

That the petition is 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 2nd day of June, 2014

\sNancy J. Gagnon
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 June 2, 2014.

Division of Health Care Access and Accountability