



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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/156992

PRELIMINARY RECITALS

Pursuant to a petition filed April 16, 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 May 28, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether the Department erred in denying petitioner’s request for a manual wheelchair in PA # [REDACTED].

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Mary Chucka, OTR (in writing)
Division of Health Care Access and Accountability
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner requested a power wheelchair in 2013. That request was granted. Petitioner still uses the power wheelchair.

3. Because the power wheelchair does not provide access to all locations, on March 7, 2014 petitioner requested a smaller, more compact, manual wheelchair to help her access some places she frequents such as friends or relatives homes, or some other places that do not have ramps or have narrow doors.
4. The Department denied the request.
5. Petitioner appealed.

DISCUSSION

The ForwardHealth program approved a power wheelchair in 2013. Petitioner continues to use that device. She wishes to have a second wheelchair as a backup and to be able to access some additional places where the power wheelchair is not appropriate.

The Department is right. This purpose does not support medical necessity of the device. The second wheelchair is requested for convenience. ForwardHealth rules clearly state that a manual wheelchair will not be paid for if the member has a power wheelchair except in very limited circumstances. See ForwardHealth DME Rules #1776. Petitioner argues that her power wheelchair may fail and she would need a backup. Should that happen, one of the exceptions listed is that a rental manual chair can be covered during a repair. But, the program does not have to pay for a second wheelchair to allow for some additional access to places that are not appropriately designed for petitioner's power wheelchair.

CONCLUSIONS OF LAW

The Department did not err in denying the request for a second wheelchair.

THEREFORE, it is ORDERED

That this appeal 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 9th day of June, 2014

\sJohn P. Tedesco
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 9, 2014.

Division of Health Care Access and Accountability