



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

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In the Matter of

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

DECISION

MPA/158356

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**PRELIMINARY RECITALS**

Pursuant to a petition filed June 14, 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 23, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether the Department of Health Services, Division of Health Care Access and Accountability (DHS) correctly denied the Petitioner’s request for a power wheelchair.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

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

Respondent:

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

By: OIG by letter

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

**ADMINISTRATIVE LAW JUDGE:**

Mayumi M. Ishii  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.

2. On April 17, 2014, Home Care Medical, Inc., on behalf of the Petitioner, filed a prior authorization request for a power wheel chair, at a cost of \$7,185.00. (Exhibit 4, pg. 9)
3. On June 5, 2014, the Department of Health Services (DHS) sent the Petitioner a letter indicating that the request was denied. (Exhibit 4, pgs. 34-38)
4. On June 5, 2014, DHS sent Home Care Medical notice of the same. (Exhibit 4, pgs. 39-41)
5. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on June 14, 2014. (Exhibit 1)
6. The Petitioner was approved for a manual wheel chair in 2013. (Exhibit 3; testimony of Petitioner's mother)
7. Petitioner suffered a traumatic brain injury caused by a gunshot wound. Petitioner is also diagnosed with Gait Impairment, epilepsy, joint pain in his shoulder, recurrent dislocation of lower leg joint and morbid obesity. (Exhibit 1; Exhibit 3, pgs. 15-20)
8. The Petitioner does not need a wheelchair at home, because he is able to ambulate/walk around the house. The Petitioner needs a wheelchair when he leaves home, because he cannot walk long distances. However, the Petitioner does not currently have the strength to use a power wheel chair independently. (Testimony of the Petitioner)
9. Home Care Medical reported that the home is not accessible to the power wheel chair. (Exhibit 3, pg. 21)

### DISCUSSION

Wis. Admin. Code DHS §101.03(50) defines “durable medical equipment” as, “equipment which can withstand repeated use, is primarily used for medical purposes, is generally not useful to a person in the absence of illness or injury and is appropriate for use in the home.” The administrative code lists wheelchairs as an example of “durable medical equipment”. Id.

Durable Medical Equipment and medical supplies are covered by Medicaid when prescribed by a physician and when provided by a certified physician, clinic, hospital outpatient department, nursing home, pharmacy, home health agency, therapist, orthotist, prosthetist, hearing instrument specialist or medical equipment vendor. *Wis. Admin. Code DHS §107.24(2)(a)* More specifically, Medicaid covers the cost of wheelchairs. *Wis. Admin. Code DHS §107.24(2)(c)8*. However, Prior Authorization is required of all items indicated a requiring prior authorization in the Wisconsin DME (Durable Medical Equipment) and supplies indices...” *Wis. Admin. Code DHS §107.24(3)(a)*

The Wisconsin DME and Supplies Indices can be found on-line at:

[https://www.forwardhealth.wi.gov/WIPortal/Tab/42/icscontent/Provider/medicaid/MedicalEquipmentVendor/resources\\_25.htm.spage](https://www.forwardhealth.wi.gov/WIPortal/Tab/42/icscontent/Provider/medicaid/MedicalEquipmentVendor/resources_25.htm.spage)

According to the prior authorization request, the service code for the requested wheel chair is K0825. (Exhibit 4, pg. 9)

Per the Wisconsin DME and Supplies Indices, the requested wheelchair requires prior authorization.

The Department of Health Services sometimes requires prior authorization to:

1. Safeguard against unnecessary or inappropriate care and services;
2. Safeguard against excess payments;
3. Assess the quality and timeliness of services;
4. Determine if less expensive alternative care, services or supplies are usable;

5. Promote the most effective and appropriate use of available services and facilities; and
6. Curtail misutilization practices of providers and recipients.

## Wis. Admin. Code § DHS107.02(3)(b)

“In determining whether to approve or disapprove a request for prior authorization, the department shall consider:

1. The medical necessity of the service;
2. The appropriateness of the service;
3. The cost of the service;
4. The frequency of furnishing the service;
5. The quality and timeliness of the service;
6. The extent to which less expensive alternative services are available;
7. The effective and appropriate use of available services;
8. The misutilization practices of providers and recipients;
9. The limitations imposed by pertinent federal or state statutes, rules, regulations or interpretations, including Medicare, or private insurance guidelines;
10. The need to ensure that there is closer professional scrutiny for care which is of unacceptable quality;
11. The flagrant or continuing disregard of established state and federal policies, standards, fees or procedures; and
12. The professional acceptability of unproven or experimental care, as determined by consultants to the department.”

## Wis. Admin. Code §DHS107.02(3)(e)

“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. DHS 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. Adm. Code. §DHS 101.03(96m)

Petitioner has the burden to prove, by a preponderance of the credible evidence that the requested wheelchair meets the approval criteria.

The Petitioner testified that he wants the power wheelchair so that he can independently socialize in the community and attend college classes. The Petitioner testified that he does not have the strength to use a manual wheelchair independently. However, there is conflicting information in the record regarding whether the Petitioner could access his home using the power wheel chair and the Petitioner testified that he does not need a wheelchair at home, because he can walk the short distances in his home. As such, purchase of the wheelchair would not be appropriate.

In addition, it is undisputed that Petitioner was approved for and received a manual wheel chair last year. According to the prior authorization request for the manual wheelchair, it had a service code of K0005. (Exhibit 3) Per the Wisconsin DME and Supplies Indices, the manual wheelchair should last five years and may not be replaced more than once every five years. As such, the request for the power wheel chair is somewhat duplicative in nature. Consequently, the requested wheelchair does not meet the definition of a medical necessity under Wis. Adm. Code. §DHS 101.03(96m), above.

It should be noted that the On-line Provider Handbook, under topic #1776 indicates that a person cannot be approved for both a power wheelchair and a manual wheelchair, even if the person could more readily socialize by using the second wheelchair. The On-line Provider Handbook can be found on-line at:

<https://www.forwardhealth.wi.gov/WIPortal/Online%20Handbooks/>

Based upon the foregoing, it is found that DHS correctly denied prior authorization of the power wheelchair.

If Petitioner needs the wheelchair to go to school and he anticipates being able to obtain a job as a result of his education, he might consider contacting the Department of Vocational Rehabilitation to see if they would be able to assist him in obtaining equipment to help him get to and ambulate around school:

Division of Vocational Rehabilitation -Milwaukee Northeast (YWCA)  
1915 North Martin Luther King Drive, Suite 149  
Milwaukee, WI 53212



Division of Vocational Rehabilitation- Milwaukee Northwest  
7900 West Burleigh Street  
Milwaukee, WI 53222



**CONCLUSIONS OF LAW**

DHS correctly denied prior authorization of a power wheel chair for Petitioner.

**THEREFORE, it is ORDERED**

That the Petition 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 Milwaukee,  
Wisconsin, this 19th day of August, 2014.

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\sMayumi M. Ishii  
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 August 19, 2014.

Division of Health Care Access and Accountability