



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[Redacted]
[Redacted]
c/o [Redacted]
[Redacted]
[Redacted]

DECISION

MPA/158709

PRELIMINARY RECITALS

Pursuant to a petition filed June 28, 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 August 19, 2014, by telephone.

The issue for determination is whether the Division correctly denied a request for orthotics for the petitioner.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[Redacted]
By: [Redacted] mother
[Redacted]
[Redacted]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703
By written submission of Pamela Hoffman, PT, DPT, MS
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 (CARES # [Redacted]) is a resident of Outagamie County. He is certified for MA.

2. On June 10, 2014, a prior authorization request (#...101) was submitted on the petitioner's behalf for foot orthotics. The requested items cost \$826. The Division denied the authorization request on June 18, 2014.
3. The Division's basis for denial was that the petitioner's feet do not fit into any of the permissible categories for coverage of orthotics.
4. The petitioner, age 34, has diagnoses of tuberous sclerosis, plantar fasciitis, and pronation (flat feet) bilaterally. He experiences foot and ankle pain, and is becoming increasingly unwilling to walk due to that pain.
5. The petitioner is not suffering from a post-surgery condition. His shoes are the same size (size 9). He does not have differing leg lengths, or a rigid foot deformation. Plantar fasciitis and pronation are not considered to be gross foot deformities. His shoes are not attached to a brace or bar.

DISCUSSION

The Division denied the petitioner's request for foot orthotics. The state Medicaid code language states:

(2) COVERED SERVICES.

...

2. Orthopedic or corrective shoes. These are any shoes attached to a brace for prosthesis; mismatched shoes involving a difference of a full size or more; or shoes that are modified to take into account discrepancy in limb length or a rigid foot deformation. Arch supports are not considered a brace. Examples of orthopedic or corrective shoes are supinator and pronator shoes, surgical shoes for braces, and custom-molded shoes.

...

(4) OTHER LIMITATIONS.

...

(f) Orthopedic or corrective shoes or foot orthoses shall be provided only for postsurgery conditions, gross deformities, or when attached to a brace or bar. These conditions shall be described in the prior authorization request.

...

(5) NON-COVERED SERVICES. The following services are not covered services:

(a) Foot orthoses or orthopedic or corrective shoes for the following conditions:

1. Flattened arches, regardless of the underlying pathology; ...

Wisconsin Administrative Code § DHS 107.24(2),(4)(f), (5)(a)

Thus, Medical Assistance regulations specifically prohibit coverage of foot orthoses for flattened arches, incomplete dislocation of metatarsalgia, arthritis with no associated deformities, or hypoallergenic conditions. Wis. Adm. Code, § DHS 107.24(5)(a)1.

The petitioner's representative indicated that the petitioner is experiencing pain when walking, and that he is therefore walking less than he should. Understandably, she was seeking resources to reduce that pain. However, the petitioner does not meet the limited criteria for payment for this item under MA rules. Therefore, denial of his authorization request was correct.

CONCLUSIONS OF LAW

1. Denial of the requested orthoses was correct, as the petitioner's condition does not meet the criteria at Wis. Admin. Code § DHS 107.24(2)-(4).

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 21st day of August, 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 August 21, 2014.

Division of Health Care Access and Accountability