



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

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In the Matter of:

██████████  
c/o ██████████ & ██████████  
██████████  
████████████████████

DECISION

MPA/159995

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**PRELIMINARY RECITALS**

Pursuant to a petition filed August 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 [“DCHAA”] in regard to Medical Assistance [“MA”], a Hearing was held via telephone on October 7, 2014.

The issue for determination is whether petitioner is eligible for payment by the MA program for a Nova Chat 7 Dedicated Speech Generating Device.

There appeared at that time via telephone the following persons:

**PARTIES IN INTEREST:**

**Petitioner:**

██████████ (not present at October 7, 2014  
Hearing)  
c/o ██████████ & ██████████  
██████████  
████████████████████

**Petitioner's Representative:**

██████████  
████████████████████  
████████████████████  
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**Respondent:**

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703  
By: Theresa Walske, MS, CCC-SLP  
Division of Health Care Access and Accountability  
1 West Wilson Street, Room 272  
P.O. Box 309  
Madison, WI 53707-0309

**ADMINISTRATIVE LAW JUDGE:**

Sean P. Maloney  
Division of Hearings and Appeals

### FINDINGS OF FACT

1. Petitioner (7 years old) is a resident of Lincoln County, Wisconsin.
2. Petitioner has a diagnosis of autism and mixed expressive/receptive language disorder.
3. On May 29, 2014 petitioner's provider, [REDACTED] of Cedar Falls, Iowa, requested Prior Authorization (P.A. # [REDACTED] dated May 29, 2014) for MA coverage of a Nova Chat 7 Dedicated Speech Generating Device at a stated cost of \$7,200.00; at the October 7, 2014 Hearing petitioner's provider clarified that it would accept the \$4,495.50 for the Nova Chat 7 Dedicated Speech Generating Device (which is 90% of the Manufacturer's Suggested Retail Price ["MSRP"]).
4. On July 8, 2014 DCHAA denied the Nova Chat 7 Dedicated Speech Generating Device requested in PA # [REDACTED]; DCHAA sent petitioner a letter dated July 8, 2014 and entitled *BadgerCare Plus Notice of Appeal Rights* informing petitioner of the denial.
5. DCHAA is willing to approve and reimburse for an extended rental for petitioner to try the Nova Chat 7 Dedicated Speech Generating Device to determine if the device is beneficial.
6. At the October 7, 2014 Hearing petitioner's representative stated that she had no problem with a long-term rental (although she pointed-out that petitioner has already had the Nova Chat 7 Dedicated Speech Generating Device for 3-week trial period).

### DISCUSSION

By law, MA pays only for medically necessary and appropriate health care services when provided to currently eligible MA recipients. Wis. Admin. Code §§ DHS 107.01(1) & 107.17(1) (February 2014); See also, Wis. Stat. §§ 49.46(2) & 49.47(6)(a) (2011-12). In order for a service to be *medically necessary* it must meet several specific requirements. See, Wis. Admin. Code § DHS 101.03(96m) (December 2008). As with any eligibility denial, the burden is on petitioner to show that he is eligible for the requested services. *Lavine v. Milne*, 424 U.S. 577, 583-584 (1976).

In this case it is not necessary to decide whether petitioner is eligible for payment by the MA program for a Nova Chat 7 Dedicated Speech Generating Device. This is because DCHAA is willing to approve and reimburse for an extended rental and petitioner is willing to accept an extended rental.

Petitioner should file a new PA with DCHAA requesting an extended rental of the Nova Chat 7 Dedicated Speech Generating Device. Petitioner's provider should attach a copy of this *Decision* to that PA.

### CONCLUSIONS OF LAW

For the reasons discussed above, it is not necessary to decide whether petitioner is eligible for payment by the MA program for a Nova Chat 7 Dedicated Speech Generating Device.

**NOW, THEREFORE, it is**

**ORDERED**

That 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**

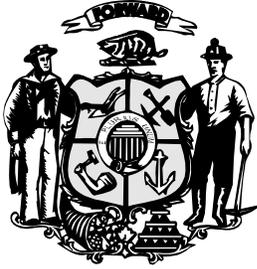
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those 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 10th day of October, 2014

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\sSean P. Maloney  
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 October 10, 2014.

Division of Health Care Access and Accountability