



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[Redacted]
[Redacted]
Redact
[Redacted]
[Redacted]

DECISION

MPA/160767

PRELIMINARY RECITALS

Pursuant to a petition filed September 19, 2014, under Wis. Stat., §49.45(5), to review a decision by the Division of Health Care Access and Accountability (DHCAA) to deny Medical Assistance (MA) authorization for a car seat, a hearing was held on November 25, 2014, by telephone. A hearing set for October 22, 2014 was rescheduled at the petitioner’s request. The record was held open 17 days to allow petitioner to provide additional information; the information was received and is included in the record.

The issue for determination is whether a car seat is medically necessary for petitioner.

PARTIES IN INTEREST:

Petitioner:

[Redacted]
[Redacted]
Redact
[Redacted]
[Redacted]

Petitioner's Representative:

Atty. [Redacted]
ABC for Health
32 N. Bassett Street
Madison, WI 53703-2606

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703
By: Written submission of Pamela J. Hoffman PT Consultant

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a five-year-old resident of Dane County who receives MA.
2. Petitioner has hypotonia, chromosomal deletion syndrome, and cleft palate. She has impaired communication abilities, and has ongoing behavioral issues such as hitting, biting, and kicking. In addition she regularly resorts to unbuckling her seat belt when in a car. The behavior is related to her diagnoses. In July, 2014, she was 41 inches tall and weighed 37 pounds.

3. On August 27, 2014, National Seating and Mobility requested prior authorization for a Roosevelt car seat with accessories at a total cost of \$2,400, PA no. [Redact]. The accessories are to assure that petitioner will not be able to escape from the seat while the car is in motion.
4. By a letter dated September 4, 2014, the DHCAA denied the request as not being medically necessary. It is not required to support petitioner in an upright position but to restrain her.

DISCUSSION

For a piece of medical equipment, or a component of the equipment, to be covered by MA, it must be medically necessary. Wis. Admin. Code, §DHS 107.02(3)(e)1. Medical necessity is defined at Admin. Code, §DHS 101.03(96m)(b), as being required to prevent, identify, or treat an illness, injury, or disability, and be not solely for the person's or provider's convenience, cost-effective as compared to other services or equipment, and the most appropriate equipment that can be provided to the person. It is the provider's obligation to justify the provision of the service. Admin. Code, §DHS 107.02(3)(d)6.

The DHCAA notes that car seats typically are not considered durable medical equipment. However, the Department in the past has covered car seats when a child is over age four, weighs over 40 pounds, or is taller than 40 inches, and the child cannot maintain an upright seating position without the support of the specialized seat. Indeed, this office has reviewed requests over the years for car seats, and all that I have found involve children lacking head and trunk control. The decision in case no. MPA-36/105285, dated 8/12/09, provides a history of such cases, and more recent cases in this office's data base also involve individuals without head and trunk control. This situation is different in that petitioner has adequate head and trunk control; the problem is her behavior in that she unbuckles her seat belt and moves around while the vehicle is in motion.

In the end, I must conclude that although the requested car seat would be useful to petitioner's family, it is not medically necessary. The sole reason for the request is that petitioner will not stay in a seat belt. Petitioner's doctor states in her letter that the behavior is related to her diagnoses, but all behavior is related to something in the person's history. The simple way to react to petitioner unbuckling her seat belt is to buckle it back up again. It is not convenient, but MA does not pay for equipment that is for the family's convenience.

I note that Medicaid and BadgerCare Update no. 2004-75, referred to at page 3 of the Office of the Inspector General case summary dated October 14, 2014, gives a list of equipment that is not covered by MA. In the list of non-covered items due to not being primarily medical in nature are restraints and safety equipment (such as harnesses, wanderguard, or fences). The requested car seat in this case is in essence a restraint and/or a piece of safety equipment. Just as a fence might help keep a developmentally disabled child who wanders away from the home safer, this car seat would keep petitioner safer. However, it is not something that *Medical Assistance* covers.

Because I conclude that the car seat is not medically necessary, I will not address the additional position of the DHCAA that the accessories requested with the seat are not reimbursable separately.

CONCLUSIONS OF LAW

The DHCAA correctly denied the requested car seat because it is not medically necessary, but instead is a restraint and/or safety item that MA does not cover.

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 19th day of December, 2014

\sBrian C. Schneider
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 December 19, 2014.

Division of Health Care Access and Accountability
Attorney Redact