



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[Redacted case name]

DECISION

MPA/162875

PRELIMINARY RECITALS

Pursuant to a petition filed December 22, 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 February 11, 2015, by telephone.

The issue for determination is whether the Division correctly denied a prior authorization request for a new manual with wheelchair with power assist wheels for the petitioner.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[Redacted petitioner name]

Petitioner's Representative:

[Redacted petitioner representative name]

Respondent:

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

By written submission of [Redacted], OTR
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. She is certified for MA.

2. On November 7, 2014, a prior authorization was submitted on the petitioner's behalf for a new manual wheelchair with power assist wheels. The identified cost is \$15,665.60. The Division issued written notice of denial on November 19, 2014.
3. The Division's bases for denial are that the petitioner has not established that the requested chair is a medical necessity or the most cost effective alternative for meeting her needs. Specifically, the Division asserts that the request did not supply clinical documentation to prove that she cannot continue to self-propel her current manual chair without injuring her shoulders. Also, the request did not explain what is wrong with her current manual wheelchair, such as a list of parts needing replacement. Also, if the current chair is as ill-fitting as the petitioner alleges, the Division questions why the new chair is the same size. Confirmation of a trial usage of the new chair was not included in the request. The Division also wonders if a power wheelchair would be more appropriate, and notes that several models of power wheelchair are available at a cost that is less than \$15,000.
4. The petitioner, age 18, lives in the community with family. She has diagnoses of paraplegia and head injury. The petitioner plans to attend technical college in Oshkosh in the near future, at which time she hopes to be able to drive a vehicle and then load/unload her chair in and out of her vehicle independently. She has a Quickie Q7 manual wheelchair provided in March 2012. It offers poor alignment for self-propulsion.
5. The Quickie chair is worn out. It requires new upholstery, wheel locks, anti-tippers, and tires. The estimated repair cost is \$1,200. The petitioner is currently using a loaner chair, because the Quickie chair is unsafe.
6. The petitioner has undergone a successful trial usage of the requested chair in the presence of the provider's representative, Mr. Redact. However, that trial did not include an observation of the petitioner loading and unloading the chair into a vehicle.
7. The power assist wheels would help the petitioner to cover longer distances. They weigh around 14 pounds, and cannot be retro-fitted onto the frame of her current chair (the base is too short).
8. The petitioner does not have her driver's license.

DISCUSSION

Wheelchairs are items of durable medical equipment (DME). Medically necessary home health care DME is covered by the MA program, with many of the DME items requiring prior authorization as a condition of payment:

(2) COVERED SERVICES. ...

(c) Categories of durable medical equipment. The following are categories of durable medical equipment covered by MA:

...

8. Wheelchairs. These are chairs mounted on wheels usually specially designed to accommodate individual disabilities and provide mobility. Examples are a standard weight wheelchair, a lightweight wheelchair and an electrically-powered wheelchair.

...

(3) SERVICES REQUIRING PRIOR AUTHORIZATION. The following services require prior authorization:

(a) Purchase of all items indicated as requiring prior authorization in the Wisconsin DME and medical supplies indices, published periodically and distributed to appropriate providers by the department;

...

Wis. Admin. Code § DHS 107.24(2)(3). In determining whether to grant prior authorization, the Division must apply the generic prior authorization criteria found at Wis. Admin. Code § DHS 107.02(3)(e). The twelve generic prior authorization code criteria include the requirements that the requested equipment be a medical necessity and cost effective when compared to alternative equipment or service choices.

A manual wheelchair with power assist wheels is an MA-covered DME item. Per the DME Index, all such items require prior authorization.

The Division argues that the petitioner's current manual chair from 2012 could be repaired, given that the provider did not explain the extent of the repairs needed. If a manual chair no longer meets the petitioner's needs due to strain on her shoulders or the need to cover greater distances, the Division argues that a power wheelchair at a lower price point than \$15,000 is a more cost effective choice. Her provider testified that power chairs will not fit into the petitioner's home bedroom and bathroom.

The representative presented the alternative of the new manual chair that is constructed to be compatible with power assist wheels as a device that would allow the petitioner to place the chair into a vehicle and then drive herself in the vehicle to the technical school. She could then unload the chair and use it to matriculate around school. This is an attractive scenario, especially if the petitioner had to park her vehicle at a location some distance from the school building(s). However, the petitioner does not yet have her driver's license. A date in the imminent future for obtaining the license was not identified. Thus, I do not know how realistic or imminent this scenario is. Thus, the petitioner's argument is too speculative. The petitioner has the burden of proving, by a preponderance of the credible evidence, that this chair with power assist wheels is necessary and appropriate. That burden has not been met at this time. If the petitioner's current chair is unrepairable, it might make sense to submit a new prior authorization request for a new ultralight manual chair for current use. If the new chair is compatible with the the addition of a power assist system, perhaps the power assist could be requested in the future, after the petitioner has obtained her driver's license.

CONCLUSIONS OF LAW

1. The petitioner has not met her burden of establishing that that the requested new manual wheelchair and power assist system are a medically necessary and cost effective choice for her at this time.

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 17th day of March, 2015

\sNancy J. Gagnon
Administrative Law Judge
Division of Hearings and Appeals
MPAdmeWheel



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on March 17, 2015.

Division of Health Care Access and Accountability

Redact