



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FCP/164074

PRELIMINARY RECITALS

Pursuant to a petition filed February 17, 2015, under Wis. Admin. Code § DHS 10.55, to review a decision by Community Care Inc. in regard to Medical Assistance, a hearing was held on March 19, 2015, at Milwaukee, Wisconsin. The hearing was held open to allow the petitioner to submit a letter from her doctor, which was received via facsimile on March 19, 2015.

The issue for determination is whether the respondent correctly denied petitioner’s request for a reclining wheelchair.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

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Respondent:

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

By: [REDACTED]
Community Care Inc.
205 Bishops Way
Brookfield, WI 53005

ADMINISTRATIVE LAW JUDGE:

Peter McCombs (telephonically)
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Milwaukee County. She is an FCP recipient with Community Care, Inc. acting as her managed care organization (MCO).

2. Petitioner has diagnoses of hypertension, obesity, depression and fibromyalgia. She further has reported pressure in her chest, which can be alleviated when she lies on her side.
3. Petitioner utilizes a wheeled walker to ambulate.
4. On or about January 14, 2015, petitioner requested a reclining wheelchair. The MCO denied the request on or about February 9, 2015. Exhibit 2.

DISCUSSION

The Family Care program, which is supervised by the Department of Health Services, is designed to provide appropriate long-term care services for elderly or disabled adults. It is authorized in the Wisconsin Statutes, §46.286, and is described comprehensively in the Wisconsin Administrative Code, Chapter DHS 10.

The MCO must develop an Individual Service Plan (ISP) in partnership with the client. Wis. Adm. Code, §DHS 10.44(2)(f). The ISP must reasonably and effectively address all of the client's long-term needs and outcomes to assist the client to be as self-reliant and autonomous as possible, but nevertheless must be cost effective. While the client has input, the MCO does not have to provide all services the client desires if there are less expensive alternatives to achieve the same results. Wis. Adm. Code, §DHS 10.44(1)(f); DHS booklet, Being a Full Partner in Family Care, page 9. ISPs must be reviewed periodically. Adm. Code, §DHS 10.44(j)(5).

The issue in this case is whether the MCO acted appropriately in denying petitioner's request for a reclining wheel chair. As has been noted many times in the past, there are no standards written in the law or policy on how to make such a determination. It comes down to the general criteria for determining authorization for services – medical appropriateness and necessity, cost effectiveness, statutory and rule limitations, and effectiveness of the service. See Wis. Adm. Code, §DHS 107.02(3)(e).

In this case, the MCO determined in February, 2015, that the requested wheelchair was not appropriate because petitioner has the strength and mobility to ambulate safely with her wheeled walker. That conclusion was arrived at following an assessment completed by a rehabilitation specialist. The assessment further found that petitioner is able to ambulate the length of her apartment hallway twice per day, and that she is able to transfer independently. The respondent further contends that a reclining wheelchair would not be appropriate since petitioner has indicated that lying on her side best addresses her chest pressure; a reclining wheelchair are not recommended for the side-lying position. See, Exhibit 2.

The petitioner has produced no evidence to rebut these assessment results, with the exception of her own general testimony and the letter from her doctor. Unfortunately, the letter from her doctor is so vague as to provide no real impact here. Her provider wrote:

[Petitioner] would benefit from an adjustable wheelchair. In my opinion it could help alleviate pain from her fibromyalgia if she could adjust position.

Exhibit 3. This opinion provides no corroboration regarding the petitioner's assertion that the requested wheelchair would address her chest pressure issue, and only offers that the wheelchair "could" alleviate her fibromyalgia pain. The petitioner has not established the medical necessity of the wheelchair; while it may be beneficial, the record does not establish that it is necessary. Without more, I find that the petitioner has failed to rebut the respondent's arguments in favor of the denial. Based on the entirety of the record before me, I conclude that the denial of the requested reclining wheelchair was correct.

CONCLUSIONS OF LAW

The respondent correctly denied the petitioner's request for a reclining wheelchair, as petitioner has not established the medical necessity of the durable medical equipment requested.

NOW, THEREFORE, it is ORDERED

That the petition herein be 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 1st day of May, 2015.

\sPeter McCombs
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 May 1, 2015.

Community Care Inc.
Office of Family Care Expansion