



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

Redact

DECISION

MPA/164759

PRELIMINARY RECITALS

Pursuant to a petition filed March 17, 2015, 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)/BadgerCare Plus, a hearing was held on April 28, 2015, by telephone.

The issue for determination is whether the Division correctly denied a prior authorization request for bilateral orthotics.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

Redact

Respondent:

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

By written submission of Redact, 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 # Redact) is a resident of Brown County. He is certified for MA/BC+.

2. On February 24, 2015, a prior authorization request (#...Red...) was submitted on the petitioner's behalf for bilateral foot orthotics. The requested items cost \$498. Following a resubmission, the Division denied the authorization request on March 5, 2015.
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 foot orthotics.
4. The petitioner, age 49, has diagnoses of overweight, pes planus, hallus varus, plantar fasciitis, plantar fascia fibromatosis, and abscess of the tendon sheath. Pes planus is commonly known as flat feet. Hallus varus is a deviation of the big toe away from the next toe and towards the midline of the body. The degree of deviation varies widely among patients, and the degree of deviation was not identified in the authorization request. Plantar fasciitis is a common inflammation of the tissues that run along the bottom of the feet. Plantar fascia fibromatosis is a slow-growing, non-malignant thickening of the plantar tissues. Abscess of the tendon sheath is an infection somewhere in the soft connective tissue in the foot (location unspecified).
5. The petitioner is not suffering from a post-surgery condition. His shoes are size 13 (both feet) when wearing OTC orthotics, and size 12 (both feet) without orthotics. He does not have differing leg lengths, or a rigid foot deformation. 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.

...

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.

Wisconsin Administrative Code § DHS 107.24(4)(f). Plantar fasciitis/fibromatosis and a tendon abscess are not types of "rigid foot deformation."

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. Thus, although the petitioner has flat feet/arches, that cannot be a reason for approving orthotics.

The petitioner testified that he is overweight and desires custom orthotics to make his feet more comfortable during exercise. The petitioner has not established that he suffers from any of the foot problems identified in the code above. 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 29th day of April, 2015

\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 April 29, 2015.

Division of Health Care Access and Accountability