



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[Redacted]
[Redacted]
Redact
[Redacted]

DECISION

MPA/165648

PRELIMINARY RECITALS

Pursuant to a petition filed April 22, 2015, 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 arch supports, a hearing was held on May 12, 2015, by telephone.

The issue for determination is whether MA rules allow purchase of orthotics in petitioner's situation.

PARTIES IN INTEREST:

Petitioner:

[Redacted]
[Redacted]
Redact
[Redacted]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703
By: Written submission of [Redacted], OT Consultant

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [Redacted]) is a resident of Sauk County who receives MA.
2. On March 20, 2015, [Redacted] requested prior authorization for foot longitudinal arch supports at a cost of \$1,170, PA no. 5150790278. The diagnoses on the request were tibial tendonitis and joint pain pelvis. In the description of the condition the request mentions that petitioner has pain in the left calcaneous but does not explain the derivation of the pain.
3. By a letter dated March 24, 2015, the DHCAA denied the request because it did not show a diagnosis for which orthotics could be granted.

## DISCUSSION

The DHCAA may only reimburse providers for medically necessary and appropriate health care services and equipment listed in Wis. Stat., §§ 49.46(2) and 49.47(6)(a), as implemented by the Wisconsin Administrative Code, chapter DHS 107.

The administrative code provision governing durable medical equipment provides, in relevant part, as follows:

DHS 107.24. Durable Medical Equipment and Supplies . . .

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

2. Orthopedic and corrective shoes. These are any shoes attached to a brace for prosthesis . . . .
3. Orthoses. These are devices which limit or assist motion of any segment of the human body. They are designed to stabilize a weakened part or correct a structural problem. Examples are arm braces and leg braces....

(4) OTHER LIMITATIONS . . .

- (f) Orthopedic or corrective shoes or foot orthoses shall be provided only for postsurgery conditions, gross foot deformities, or when attached to a brace or a bar. These conditions shall be described in the prior authorization request....

(5) NON-COVERED SERVICES. The following services are not covered services:

- (a) Foot orthoses or orthopedic or corrective shoes for the following conditions:
  1. Flattened arches, regardless of the underlying pathology;
  2. Incomplete dislocation or subluxation metatarsalgia with no associated deformities;
  3. Arthritis with no associated deformities; and,
  4. Hypoallergenic conditions....

Under MA rules orthotics can be covered only for postsurgery conditions or gross foot deformities. In October, 2014, the Department sent providers a Forward health Update, no. 2014-64, that listed specific diagnoses and their billing codes for which orthotics could be granted. The two diagnoses listed on the PA request for petitioner were not on the approved list. Tendonitis obviously is not in the nature of a foot deformity.

Petitioner testified that she has an abnormally-shaped toe on one foot, and that her right leg is five millimeters shorter than her left leg. It is possible that those problems, alone or in combination, would be the types of deformities for which orthotics could be covered. However, there is nothing in the PA request suggesting those problems. I cannot grant the request based on petitioner's testimony. Furthermore, the submission from Redact sent to this office prior to the hearing mentions that petitioner has flat feet, which specifically is a condition for which orthotics cannot be approved.

To get approval the provider can file a new PA request showing how petitioner's condition meets the approval criteria. The PA request at issue in this appeal, as filed, was denied correctly.

**CONCLUSIONS OF LAW**

The DHCAA correctly denied a request for orthotics for petitioner because the diagnoses were not of the type covered for orthotics by the MA program.

**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 14th day of May, 2015

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\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 May 14, 2015.

Division of Health Care Access and Accountability