



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

MPA/166201

PRELIMINARY RECITALS

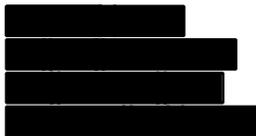
Pursuant to a petition filed May 22, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance, a hearing was held on June 24, 2015, at Appleton, Wisconsin.

The issue for determination is whether the agency correctly denied the petitioner's prior authorization request for a standing frame.

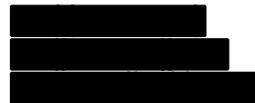
There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



Petitioner's Representative:



Respondent:

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

By: Mary Chucka, 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:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. The petitioner (CARES # [redacted]) is a resident of Outagamie County.

2. On May 5, 2015 the petitioner submitted a prior authorization request for standing frame system. The cost of the system was \$3,363.20.
3. On June 26, 2015 the Department notified the petitioner in writing that they denied his prior authorization for the standing frame system.
4. The petitioner is a two-year old boy with a medical diagnosis of Spina Bifida. He has bilateral hip dislocation and bilateral club feet. His feet were surgically corrected in August 2014. He is in an active physical therapy (PT) program with the current goals of transitioning from sit to tall kneel at a low stable object with minimal assist, standing at a stable object for 3 minutes with minimal assist to reach for educational materials, and push himself backwards on a ride toy.
5. On May 26, 2015 the Division of Hearings and Appeals received the petitioner's request for fair hearing.

DISCUSSION

A stander is a piece of positioning equipment. It is "durable medical equipment," covered by the MA program, subject to prior authorization criteria. See Wis. Admin. Code §HFS 107.24(2)(c)4&6, (3). In determining whether or not to approve an authorization request for a stander, the Division looks to the generic authorization criteria found at Wis. Admin. Code §DHS 107.02(3)(e). The critical criteria here are that there be a "medical necessity" for the requested item, that it not duplicate other services, and that it be cost-effective. See *ibid.*, 1,3,7.

The Department argues that the requested stander is not medically necessary. They acknowledge that "a standing frame is generally considered medically necessary when the member is involved in a physical therapy program with anticipated achievement of independent standing pivot transfers and/or ambulation." However, they then state that there are more cost effective ways to address the petitioner's leg length discrepancy, other ways to target the hip dislocation issue, and that this type of equipment is sometimes available through a loan program with some organizations. They further argue that there are not enough therapy notes showing the petitioner's progression.

In this case the petitioner is a child in a physical therapy program. His current goals in therapy include transition from sit to tall kneel at a low stable object with minimal assist, stand at a stable object for 3 minutes with minimal assist to reach for educational materials, and push himself backwards on a ride toy. He can currently stand with his AFO's on his feet by the furniture with maximal trunk support.

The key elements for the approval of a prior authorization of a stander include the following: the member is a child, spina bifida is an allowable diagnosis, the member must be involved in an active PT (physical therapy) program, the program includes specific and measureable goals for significant improvement, the member can work on the specific and measureable goals without the assistance of two people, there is a written carry over plan for caretakers to work toward the specific therapy goals, the PA contains the specific brand and model number, the stander is size appropriate, growth features are not medically necessary, motorized, hydraulic, electric standers, standers with wheels, and multi-positional standers are not medically necessary.

The petitioner meets all of the guidelines for the purchase of a stander. The petitioner's representative testified that the agencies listed on the Department's attachment no longer offer standers for loan or use. Their funding changed, and they are no longer able to provide that service. In looking at this particular petitioner and the specific stander requested, he meets all of the above listed forward health guidelines. I further note that the Department argues that the petitioner has not shown enough progress thus far for the stander. However, the Department states that for approval "the physical therapy plan of care offers the progression of skills toward independent transfers and /or ambulation." The plan of care in this case offers that. The issue is not what the petitioner has done in the past, but what his future goals are, and

how the stander will help accomplish the specific goals of transfers and ambulation. The petitioner has shown this.

CONCLUSIONS OF LAW

The Department incorrectly denied the petitioner’s medical prior authorization request for a stander.

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 Milwaukee,
Wisconsin, this 30th day of June, 2015

\sCorinne Balter
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 June 30, 2015.

Division of Health Care Access and Accountability
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