



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
c/o [REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/166207

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 (DHCAA or Division) in regard to Medical Assistance (MA), a hearing was held on June 10, 2015, by telephone.

The issue for determination is whether the Division correctly denied a prior authorization request for a manual wheelchair.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
c/o [REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By written submission of 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:

Nancy J. Gagnon
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Milwaukee County. She is certified for MA.

2. On April 16, 2015, a prior authorization request for a folding manual wheelchair with accessories was submitted to the Division on the petitioner's behalf. The items cost \$3,890. The Division issued written notice of denial of that request on April 28, 2015.
3. The Division's bases for denial are that the petitioner has not established that the requested chair is a medical necessity, not a duplication of services, or the most cost effective alternative for meeting her needs. Specifically, she has already requested and received a \$9,200 power wheelchair from MA as her primary mode of mobility. MA does not pay for secondary or "back-up" wheelchairs.
4. The petitioner, age 20, lives in the community with family. She has diagnoses of cerebral palsy and limited expressive speech (10 words). She is able to bear weight on her right leg, but not on the left. The petitioner has a power wheelchair, provided in 2012, which is her primary mode of mobility. She uses the power chair while attending a language school and elsewhere in the community. In the 2012 power wheelchair request, the provider stated that the power chair would provide an "effective means of mobility for ██████████ in her home, at school and in the community." The approved 2012 request also contains an assertion from the provider that the petitioner would get a ramp for use with a van if the power chair was approved.
5. The petitioner is able to get her power wheelchair into the one story home in which she resides. However, to navigate between rooms within the home, she currently uses a manual wheelchair purchased when she was age 13. That manual chair is worn out, and is too small for her adult size.
6. The petitioner continues to require the use of her power chair at school, for medical appointments, and in the community.

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). A manual wheelchair for a non-institutionalized person is an MA-covered DME item. 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. Further, any authorized MA service must not be a duplication of other received services. Wis. Admin. Code § 101.03(96m)(b)6.

The Division argues that the petitioner's power chair from 2012 continues to meet the petitioner's primary mobility needs. The Division of Hearings and Appeals has generally held that a person is entitled to only one chair. The DHCAA has the following limited published policy regarding a request for a second wheelchair:

Topic #1776

Two Types of Wheelchairs for One Member

If a member owns a power/motorized wheelchair, the purchase of a manual wheelchair is approved only when the provider demonstrates medical necessity. Based on past determinations, the following are examples that may be considered not medically necessary (DHS 107.24(2)(b) and DHS 107.24(3), Wis. Admin. Code):

- The power/motorized wheelchair cannot be transported in the family vehicle.
- A physician's office, dentist's office, or school is inaccessible with the power/motorized wheelchair.
- The member could more readily socialize by using a manual wheelchair.
- A manual wheelchair is requested as a backup while a power/motorized wheelchair is being repaired.

The rental of a second wheelchair is covered while a member's wheelchair is being repaired.

ForwardHealth Provider Handbook, Durable Medical Equipment, Topic #1776, viewable at <https://www.forwardhealth.wi.gov/WIPortal/Search/tabid/45/Default.aspx?searchBy=Provider&miniSearchValue=> .

The petitioner's mother testified that power chairs will not fit into the petitioner's home bedroom and bathroom. She offered no documentation of this assertion. *E.g.*, a photo of the doorframe to the bathroom with a yardstick, and a photo of the power wheelchair base with a yardstick. Contrarily, the provider in the 2012 prior authorization request asserted that the power wheelchair was suitable for use in the home. The petitioner has the burden of proving, by a preponderance of the credible evidence, that the requested manual chair is a non-duplicative, medical necessity. She has not met that burden.

The petitioner may wish to investigate non-Medicaid resources for procuring a manual wheelchair. If she is in either the Family Care or IRIS programs, she may wish to request the chair from them. Alternatively, refurbished wheelchairs can be purchased at a lower price through Independence First's wheelchair recycling program.

CONCLUSIONS OF LAW

1. The petitioner has not met her burden of proving that the requested manual wheelchair is a medical necessity and non-duplicative, where the petitioner already has a power wheelchair.

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 12th day of August, 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 August 12, 2015.

Division of Health Care Access and Accountability