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**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of:

██████ ██████
██████████████████
██████████████████

DECISION

MPA/172728

PRELIMINARY RECITALS

Pursuant to a petition filed March 8, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Office of the Inspector General [“OIG”] in regard to Medical Assistance [“MA”], a Hearing was held via telephone from Madison, Wisconsin on April 19, 2016.

The issue for determination is whether the OIG was correct to deny Prior Authorization [“PA”] for an upgraded wheelchair joystick for petitioner.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

██████ ██████
██████████████████
██████████████████

Respondent:

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

BY: ██████ ██████, OTR
Office of the Inspector General
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (52 years old) is a resident of Dane County, Wisconsin.

2. On November 11, 2015 petitioner's provider, [REDACTED], Wisconsin, requested PA for MA coverage of a new power wheelchair, with numerous accessories (including power tilt and a standard retractable joystick), for petitioner at a total cost of exceeding \$14,000 (PA # [REDACTED] dated November 11, 2015). Exhibit #1.
3. On December 28, 2015 OIG approved PA # [REDACTED] for the new power wheelchair and all requested accessories. Exhibit #1.
4. On February 9, 2016, by a letter dated February 4, 2016, petitioner's provider, [REDACTED], Wisconsin, requested an upgraded joystick for the new power wheelchair that had already been approved for petitioner; the purpose of the upgraded joystick was to allow the title feature of the new wheelchair to be operated through the joystick to conserve on the overall width of the wheelchair (the operation of the power tilt is either through a joystick or through a separate switch); the cost of the upgrade joystick is \$1,400.00. Exhibit #1.
5. On February 19, 2016 OIG denied the request for the upgraded wheelchair joystick. Exhibit #1.

DISCUSSION

By law, MA pays only for medically necessary and appropriate health care services when provided to currently eligible MA recipients. Wis. Admin. Code §§ DHS 107.01(1) & 107.18(1)(a) (August 2015); See also, Wis. Stat. §§ 49.46(2) & 49.47(6)(a) (2013-14). In order for a service to be *medically necessary* it must meet several specific requirements. See, Wis. Admin. Code § DHS 101.03(96m) (December 2008).

As with any eligibility denial, the burden is on petitioner to show that he is eligible for the requested services. *Lavine v. Milne*, 424 U.S. 577, 583-584 (1976). Petitioner has failed to do so.

One of the specific requirements for *medical necessity* is that the requested service is "required to prevent, identify or treat a recipient's illness, injury or disability." Wis. Admin. Code § DHS 101.03(96m)(a) (December 2008). In this case it is not clear that petitioner requires the upgraded joystick. Petitioner's provider states that "petitioner is very anxious about having a separate switch on his wheelchair that someone may lean into or accidentally bump it. [He] is also worried that having a separate switch will increase the risk of repair. [He] has also expressed concern that with a separate switch it may not be with in [sic] his area of reach when he is tilted back, due to his limited reach." However, no objective data has been provided to support these concerns (the exact placement of the separate switch versus the exact placement of the upgraded joystick; the frequency of the separate switch being leaned on or bumped; the exact width of the wheelchair with and without the upgraded joystick; the exact extent of petitioner's reach; etc.).

CONCLUSIONS OF LAW

For the reason discussed above, OIG was correct to deny PA for an upgrade wheelchair joystick for petitioner.

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.

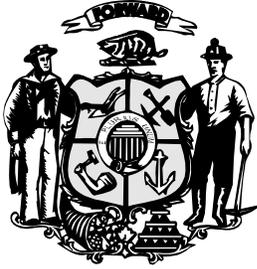
APPEAL TO COURT

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 4th day of May, 2016

\sSean P. Maloney
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 4, 2016.

Division of Health Care Access and Accountability