



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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/173488

PRELIMINARY RECITALS

Pursuant to a petition filed April 1, 2016, 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 May 11, 2016, by telephone.

The issue for determination is whether the Division correctly denied a prior authorization request for rental of a CPAP machine and related heated humidifier.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By written submission of [REDACTED], RN BSN
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 # [REDACTED]) is a resident of Milwaukee County. He is certified for MA.

2. On January 26, 2016, a prior authorization request (#...108) was submitted on the petitioner’s behalf for rental of a Continuous Airway Pressure Device (CPAP) and a heated humidifier to be used with the CPAP. The Division issued written notice of denial on February 2, 2016.
3. The Division’s basis for denial was that the devices were not medically necessary or appropriate for the petitioner, and that there was misutilization of the device.
4. The petitioner, age 59, has diagnoses of Obstructive Sleep Apnea, asthma, history of COPD, bronchitis, and gout. He is independent with mobility and in self-care tasks.
5. Previously, the Division approved a CPAP/humidifier rental for the November 17, 2015 through February 14, 2016 period. Equipment use documentation for the 11/17 – 1/24 period showed that he used the CPAP for 23 days (out of 60) at an average usage of 53 minutes. Acceptable CPAP adherence is at least 65% of the sleep schedule for most nights. The petitioner was well under the adherence standard.
6. The petitioner is currently bothered by bronchitis.

DISCUSSION

A CPAP and related humidifier (CPAP) 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:

...

4. Other home health care durable medical equipment. This is medical equipment used in a recipient’s home to increase the independence of a disabled person or modify certain disabling conditions. Examples are patient lifts, hospital beds or traction equipment.

...

(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). 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 appropriate, and that the recipient not engage in misutilization.

As noted in the code provision quoted above, CPAP rental is an MA-covered DME item, requiring prior authorization. The Division concluded that authorization is not appropriate here because it believes that the petitioner did not previously use this equipment at a level where it will be effective. The petitioner did not deny that he only used the CPAP on a limited basis during the first rental period. He blamed the limited usage on his bout of bronchitis, saying that he was coughing up mucus into the mask. However, the petitioner also testified that he continues to be bothered by bronchitis or a respiratory infection. This would

seem to create a situation where he will again use the CPAP on such a limited basis that it will not be effective. Thus, the Division correctly denied this prior authorization request because of the petitioner's poor device usage history and the continued existence of the condition that he blames for causing the low usage.

CONCLUSIONS OF LAW

1. The Division correctly denied the petitioner's authorization request for rental of a CPAP and related humidifier.

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 16th day of May, 2016

\sNancy J. Gagnon
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on May 16, 2016.

Division of Health Care Access and Accountability