



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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/173921

PRELIMINARY RECITALS

Pursuant to a petition filed April 25, 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 in regard to Medical Assistance (MA), a hearing was held on May 20, 2016, at Balsam Lake, Wisconsin.

The issue for determination is whether the petitioner is entitled to medical assistance reimbursement for a power wheelchair with an attached stander.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

█
█
█

Respondent:

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

By: [REDACTED]

Division of Health Care Access and Accountability
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner is a resident of Polk County.

2. On March 4, 2016, the petitioner with Handi Medical Supply, Inc., requested a power wheelchair with accessories, including a stander, at a cost of \$61,772. The department denied the request on March 15, 2016.
3. The petitioner is a 12-year-old boy with hereditary spastic paraplegia.
4. The petitioner does not have a goal of eventually walking or standing on his own.
5. The primary purpose of the requested stander is to improve the petitioner's health by increasing bone density and blood flow.

DISCUSSION

The petitioner requested a power wheelchair with accessories, including a power stander, at a cost of \$61,772. The department denied her request. Wheelchairs and their accessories are types of durable medical equipment that the Office of Inspector General must authorize before Medicaid will pay for them. *See* Wis. Admin. Code § DHS 107.24.

Medicaid does not cover durable medical equipment unless it is "contained in the Wisconsin durable medical equipment (DME) and medical supplies indices." Wis. Admin. Code, § DHS 107.24(2)(b). The DME not only omits standers, but the department lists "standers with mobility bases" in its Revised List of Noncovered Durable Medical Equipment and Services. *Medicaid and BadgerCare Update*, No. 2004-75 (September 2004). I have no authority to order what the department's rules specifically prohibit. Therefore, I must uphold the agency's denial.

The petitioner indicated that he might find alternative funding for the stander. I spoke with the Division of Health Care Access and Accountability's representative as I indicated I would at the hearing. She told me the provider should submit a new request and ask for "line item adjudication." After the department reviews the request, whatever portions it does not approve will receive a line item denial. These portions may then be submitted to the alternative funding source to cover the rest of the request.

CONCLUSIONS OF LAW

The Office of Inspector General correctly denied the requested power wheelchair and stander because they are not medically necessary. The stander is not medically necessary because it is not listed in the DME and is listed in the department's Revised List of Noncovered Durable Medical Equipment and Services

THEREFORE, it is

ORDERED

The petitioner's appeal 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 3rd day of June, 2016

\sMichael D. O'Brien
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 3, 2016.

Division of Health Care Access and Accountability