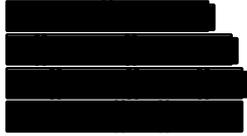




STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION
Case #: HMO - 175772

PRELIMINARY RECITALS

Pursuant to a petition filed on July 21, 2016, under Wis. Stat. § 49.45(5)(a), and Wis. Admin. Code § HA 3.03, to review a decision by the Security Health Plan regarding Medical Assistance (MA), a hearing was held on September 6, 2016, by telephone.

The issue for determination is whether the agency correctly denied coverage for a pulse oximeter.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By: [Redacted]
Security Health Plan
1515 North Saint Joseph Avenue
P.O. Box 8000
Marshfield, WI 54449-8000

ADMINISTRATIVE LAW JUDGE:

Kristin P. Fredrick
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a five year old resident of Marathon County who receives BadgerCare medical assistance through her HMO, Security Health Plan.
2. Petitioner has a history of epileptic seizures since seven months of age. The number of petitioner’s seizure occurrences vary by year, but according to the petitioner’s mother, in 2015 she had 226.
3. As an infant, the petitioner was provided with a pulse oximeter to monitor her breathing and seizure activity while sleeping and to alert the petitioner’s caregivers when she has a seizure.
4. The petitioner has continued to utilize a pulse oximeter on a nightly basis and according to petitioner’s mother the current pulse oximeter still operates.
5. On June 1, 2016, petitioner’s physician, Dr. [REDACTED], submitted to petitioner’s HMO a request for a pulse oximeter and probe on petitioner’s behalf.
6. Petitioner’s request for a pulse oximeter was denied on June 10, 2016 due to the petitioner being over one year of age and not having to be weaned off of oxygen per the health plan guidelines.

DISCUSSION

Under the discretion allowed by Wis. Stat., §49.45(9), the Department now requires MA recipients to participate in HMOs. Wis. Admin. Code, §DHS 104.05(2)(a). MA recipients enrolled in HMOs must receive medical services from the HMOs’ providers, except for referrals or emergencies. Admin. Code, §DHS 104.05(3). The criteria for approval of services by a managed care program contracted with the DHCAA are the same as the general MA criteria.

If the enrollee disagrees with any aspect of service delivery, including as in this case, a denial of coverage of durable medical equipment, provided or arranged by the HMO, the recipient may file a grievance with the department or appeal to the Division of Hearings and Appeals. Just as with regular MA, when the department denies a grievance from an HMO recipient, the recipient can appeal the department’s denial within 45 days. Wis. Stat., §49.45(5); Admin. Code, §DHS 104.01(5)(a)3.

The DHCAA may only reimburse providers for medically necessary and appropriate health care services and equipment listed in Wis. Stat., §§ 49.46(2) and 49.47(6)(a), as implemented by the Wisconsin Administrative Code, chapter DHS 107. Covered services are limited to those items listed in the Durable Medical Equipment (DME) Index. Wis. Admin. Code §DHS 107.24(2)(b). A pulse oximeter is a listed covered benefit under the DME Index requiring prior authorization:

(2) COVERED SERVICES.

...

(c) Categories of durable medical equipment. The following 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 independence of a disabled person or modify certain disabling conditions. Examples are patient lifts, hospital beds or traction equipment.

5. Oxygen therapy equipment. This is medical equipment used in a recipient’s home for the administration of oxygen or medical formulas or to assist with respiratory functions. Examples are nebulizer, a respirator and a liquid oxygen system.

...

(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)(c) and (3). In determining whether to grant a prior authorization request the DHCAA looks at the general approval criteria found at Wis. Admin. Code §DHS 107.02(3)(e). That criteria includes that the equipment be necessary, appropriate, cost effective, and the most appropriate level of service that can be provided to the recipient. See Wis. Admin. Code, §§101.03(96m) and 107.02

Additionally, Security Health Plan guidelines setting forth the coverage criteria specific for pulse oximeter for home use provide as follows:

1. Must be ordered by the Member's treating physician;
2. Pulse oximetry is covered for members for short-term (intermittent) home use in any of the following conditions:
 - a) When weaning the member from home oxygen; or
 - b) When a change in the member's physical condition requires an adjustment in the liter flow of their home oxygen needs; or
 - c) To determine appropriate home oxygen liter flow for ambulation, exercise, or sleep; or
 - d) Infant (less than one year old) on home oxygen therapy.
3. Pulse oximetry for long-term home (continuous) use is reasonable and necessary for members with any of the following:
 - a. Mechanical ventilation
 - b. Infant with chronic lung disease (bronchopulmonary dysplasia)
 - c. Premature infant on active therapy for apnea
4. It may be considered an established option for newborns and children up to one year of age if one of the following criteria is met and a trained caregiver is available to respond to changes in the oxygen saturation

...

The policy further states "Coverage of home pulse oximetry for indications other than those listed above will be directed to the case review department for individual consideration."

The HMO found that petitioner did not meet the above criteria. Petitioner is not less than one year of age, and is not on home oxygen nor mechanical ventilation. Aside from citing two medical research studies that merely reference the use of pulse oximeters for monitoring seizures, the petitioner did not submit any documentation or testimony from a medical provider opining as to why the pulse oximeter is medically necessary, appropriate, or has proven medical value and usefulness for petitioner's specific disability. Moreover, petitioner's mother testified that the current pulse oximeter continues to operate but that she wants it covered in the policy if it does break. So, at this time, petitioner cannot establish a necessity for a new pulse oximeter even if she did meet the plan's coverage criteria. Should the petitioner's current pulse oximeter cease to function, she may file a new prior authorization and submit additional support and testimony from her medical providers as to how and why the equipment is medically necessary and appropriate specific to petitioner's needs based upon the above referenced criteria.

CONCLUSIONS OF LAW

The HMO correctly denied coverage of the pulse oximeter for petitioner because she did not meet the coverage policy criteria and there is no documentation of medical necessity at this time.

THEREFORE, it is **ORDERED**

That the petition for review 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, **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 September, 2016

\s _____
Kristin P. Fredrick
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 September 12, 2016.

Division of Health Care Access and Accountability