



FH
[REDACTED]

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

In the Matter of

[REDACTED]

DECISION

MPA/143672

PRELIMINARY RECITALS

Pursuant to a petition filed September 05, 2012, 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, a hearing was held on October 24, 2012, at Eau Claire, Wisconsin.

The issue for determination is whether the petitioner is entitled to removal of lesions from her eyelid.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

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

By: Dr. Richard Carr

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 (CARES # [REDACTED]) is a resident of Eau Claire County.
2. On July 19, 2012, the petitioner with plastic surgeon Joseph Rucker requested approval to have two lesions removed from her eyelid at a cost of \$433.

3. The Prior Authorization Request submitted by Dr. Rucker contained no information about the nature of the surgery, why it was needed, or what the consequences of not having it are.

DISCUSSION

The petitioner requests authorization under Wis. Admin. Code, § DHS 107.06, to have a specialist remove two lesions from her eyelid at a cost of \$433. In order to receive the service, the petitioner must prove by the preponderance of the credible evidence that the surgery is medically necessary and appropriate. *See* Wis. Admin. Code, §§ DHS 101.03 and 107.02(3)(e) .

The first step in the process is submitting a Prior Authorization Request that adequately explains what is being done and why it is necessary. This was not done. The request indicates that surgery is to “destruct premalignant lesion” but contains nothing indicating why it is needed. The petitioner indicated that the lesions are interfering with her vision and could lead to cancer. Although she seemed credible, she is not a doctor, so she is not qualified to speak as to the medical necessity of the surgery. She did submit a record from her nurse practitioner stating that the petitioner complained that the lesions interfered with her vision and that her primary physician did not believe he was qualified to remove them. However, this was not sent to the Division of Health Care Access and Accountability, so that agency, which has the expertise to determine if the surgery is necessary, has not had a chance to review these records. In addition, the medical note indicated that the petitioner was going to receive a second opinion, but that either was not done or it was not included in the record.

I am reluctant to deny a request that might eventually be approved when the request costs only \$433. Nevertheless, I cannot approve a request that contains no documentation or explanation from the physician performing the surgery. I note to the petitioner that she can file a new request for this procedure, but if she does her surgeon must provide proper medical documentation and explanation of what specifically the surgery will accomplish and what the probable consequences of not receiving it are.

CONCLUSIONS OF LAW

The petitioner has not established by the greater weight of the credible evidence that the requested surgery is medically necessary.

THEREFORE, it is

ORDERED

The petitioner's appeal is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found 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 served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Madison,
Wisconsin, this 23rd day of November, 2012

\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 November 23, 2012.

Division of Health Care Access And Accountability