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[REDACTED]

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

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In the Matter of

[REDACTED]

DECISION

MPA/145234

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**PRELIMINARY RECITALS**

Pursuant to a petition filed November 15, 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 January 03, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly denied the Petitioner's Prior Authorization (PA) request for a pelvic CT scan with contrast.

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

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

**ADMINISTRATIVE LAW JUDGE:**

Debra Bursinger  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner is a 59 year old female with a history of gastric adenocarcinoma diagnosed in February, 2011. She completed chemotherapy treatments in September, 2011.

3. On July 16, 2012, Petitioner saw her oncologist with symptoms of loose stools and sluggishness of stomach. The physician noted no abnormal findings but a chest and abdominal and pelvic CT scan was requested for surveillance.
4. On October 3, 2012, a PA request for an abdominal and pelvic CT scan was submitted to the agency. The request was reviewed by a physician consultant on October 4, 2012 and denied the pelvic scan. On October 5, 2012, the agency issued a denial to the Petitioner. On October 8, 2012, abdominal and pelvic CT scans were completed. An alternative procedure of CT abdomen with contrast was recommended to the ordering physician's office. On October 9, 2012, the provider accepted the alternative procedure.
5. On November 15, 2012, the Petitioner filed an appeal with the Division of Hearings and Appeals.

### DISCUSSION

Physician-prescribed diagnostic services can be covered by MA, if they are consistent with good medical practice. Wis. Admin Code §§DHS 107.06(1) and 107.25. The Division has now decided to make payment of CT, MRI, and PET scans subject to prior authorization, in an effort to determine if they are being ordered consistent with good medical practice. This prior authorization requirement was announced to providers in an MA Update, #2010-92, issued to all providers in October, 2010. The triage of coverage is to be performed by the Department's agent, MedSolutions, as described in the written policy:

MedSolutions utilizes evidence-based clinical guidelines derived from national medical associations' recommendations to determine the medical necessity and appropriateness of the requested service(s). The guidelines are published on the MedSolutions Portal. MedSolutions will make a PA determination based on current ForwardHealth policy in conjunction with the MedSolutions guidelines. Providers are reminded that an approved PA does not guarantee reimbursement for the service.

The agency denied the PA request because the guidelines state that a pelvic CT scan is not indicated for recurrence or surveillance of upper GI cancers unless an abnormality arises on a chest x-ray or other studies, there are significant changes on abdominal imaging, or symptoms suggest the possibility of pelvic disease. Oncology and PET Imaging Guidelines for Surveillance of Upper GI Cancers (ONC-15.4) and Oncology and PET Imaging Guidelines for Recurrence of Upper GI Cancers (ONC-15.3). According to the physician notes submitted with the PA, there were no abnormal findings on July 16, 2012 and no significant changes to indicate the necessity of a pelvic CT. The agency did approve an abdominal CT scan based on the Petitioner's history, her symptoms and the guidelines. If the abdominal scan had indicated abnormalities or changes, a pelvic scan may have been warranted. Instead, the provider did both the pelvic and abdominal scans on the same day without have prior approval for the pelvic scan.

The Petitioner did not receive the PA denial prior to obtaining the service. According to the Petitioner's testimony, she was not provided notice by the provider that she could be liable for the cost of the pelvic CT scan prior to the scan. She testified that if she had known she would be liable for the cost, she would not have agreed to the scan. If it is accurate that the Petitioner was not informed of her personal liability for the scan if the PA was denied prior to provision of the pelvic scan, she cannot be held liable for the cost of the scan in accordance with the following regulations:

DHS 104.01(12)(2)(c): Prior Authorization of Services. When a service must be prior authorized by the department in order to be covered, the recipient may not be held liable by the certified provider unless the prior authorization was denied by the department and the recipient was informed of the recipient's personal liability before provision of the service. In that case the recipient may request a fair hearing. Negligence on the part of

the certified provider in the prior authorization process shall not result in recipient liability.

Wis. Admin. Code § DHS 104.01(12)(2)(c).

DHS 106.03(4) No payment may be made on a claim for service requiring prior authorization if written prior authorization was not requested and received by the provider prior to the date of service delivery. . .

Wis. Admin. Code § DHS 106.03(4).

Based on the evidence and guidelines, the agency properly denied the PA request for a pelvic scan. Further, if the Petitioner did not receive the denial prior to the service and was not advised of her potential personal liability if the PA was denied, the provider cannot hold the Petitioner liable for the cost of the pelvic CT scan.

*NOTE: Petitioner should be aware that Petitioner’s provider will not receive a copy of this Decision. If she wishes the provider to have a copy of the decision, she should provide a copy to the provider.*

**CONCLUSIONS OF LAW**

The agency properly denied the PA request for a pelvic scan.

**THEREFORE, it is ORDERED**

That the petition be, and hereby 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 Milwaukee,  
Wisconsin, this 31st day of January, 2013.

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\sDebra Bursinger  
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 January 31, 2013.

Division of Health Care Access And Accountability