



STATE OF WISCONSIN  
Division of Hearings and Appeals

---

In the Matter of

[REDACTED]

DECISION

MPA/145721

---

**PRELIMINARY RECITALS**

Pursuant to a petition filed December 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 December 28, 2012, at Green Bay, Wisconsin.

The issue for determination is whether the Department erred in its denial of the PA request # [REDACTED] for an oxygen concentrator.

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: Robert Derendinger RN, BSN (in writing)  
Division of Health Care Access and Accountability  
1 West Wilson Street, Room 272  
P.O. Box 309  
Madison, WI 53707-0309

**ADMINISTRATIVE LAW JUDGE:**

John P. Tedesco  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is a resident of Brown County.
2. Petitioner's provider, Green Bay Home Medical Equipment submitted a prior authorization request on October 16, 2012 requesting approval for an oxygen concentrator at a cost of \$4,200.

On the PA/R, the provider handwrote "Please Deny. Pt has not had follow up with MD. Per MD office she has cancelled any appt's made. Phone calls not returned to us. No response to certified latter. Please Deny."

3. Another notation on the PA/R paperwork states "\*\*Please Deny. She has not seen any physician in the last year. Cancelled all appts she has made. NO MD will sign a prescription."
4. At hearing, petitioner agreed that she does not have a prescription for an oxygen concentrator because it is too difficult for her to get to a doctor due to obesity.
5. The Department denied the PA request on October 23, 2012.
6. Petitioner filed a timely appeal.

### **DISCUSSION**

Approval of a prior authorization for durable medical equipment requires a physician order or prescription. Wis. Admin. Code § DHS 107.02(2m)(a). The prescription must be within one year of the PA request. Wis. Admin. Code § DHS 107.02(2m)(b). Petitioner has conceded that she does not have a prescription or physician order. The PA cannot be approved under the rules of the program.

### **CONCLUSIONS OF LAW**

The Department did not err in denying the PA request for an oxygen concentrator because petitioner does not have a physician order or prescription.

**THEREFORE, it is**

**ORDERED**

That this 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

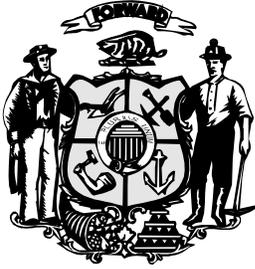
Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

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 8th day of February, 2013

---

\sJohn P. Tedesco  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin \DIVISION OF HEARINGS AND APPEALS**

David H. Schwarz  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

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

The preceding decision was sent to the following parties on February 8, 2013.

Division of Health Care Access And Accountability