



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

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In the Matter of

[REDACTED]

DECISION

MPA/145840

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**PRELIMINARY RECITALS**

Pursuant to a petition filed December 07, 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 15, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the Department erred in its denial of the prior authorization # [REDACTED] for eyeglasses and lenses.

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 Milwaukee County.

2. Petitioner's provider submitted PA request [REDACTED] for eyeglass frames and lenses (see ex. #3). The frames are frames that are not included on the state contract. The lenses requested are progressive multifocal lenses with photochromatic tinting and anti-glare.
3. The Department denied the request on November 16, 2012.
4. Petitioner filed a timely appeal.

### DISCUSSION

The provider's PA request was for frames that are not included in the state eyeglass contract. No explanation is given by the provider and the petitioner did not explain why at the time of the hearing. The lenses are also significant upgrades in that they include progressive feature, tinted feature, and anti-glare feature. Medical assistance pays for tinted lenses only if the recipient first obtains authorization. Wis. Adm. Code § HFS 107.20(2)(c). The petitioner requests tinted lenses. To qualify, she must meet both the generic prior authorization criteria listed at Wis. Adm. Code § HFS 107.02(3)(e) and the more specific criteria and found in the *Vision Care Services Provider Handbook*. The generic prior authorization review criteria include, among other things, the medical necessity of the service, the cost of the service, and the effective and appropriate use of available services.

“Medically necessary” means a medical assistance service under ch. HFS 107 that is:

- (a) Required to prevent, identify or treat a recipient's illness, injury or disability; and
- (b) Meets the following standards:
  1. Is consistent with the recipient's symptoms or with prevention, diagnosis or treatment of the recipient's illness, injury or disability;
  2. Is provided consistent with standards of acceptable quality of care applicable to the type of service, the type of provider, and the setting in which the service is provided;
  3. Is appropriate with regard to generally accepted standards of medical practice;
  4. Is not medically contraindicated with regard to the recipient's diagnoses, the recipient's symptoms or other medically necessary services being provided to the recipient;
  5. Is of proven medical value or usefulness and, consistent with s. HFS 107.035, is not experimental in nature;
  6. Is not duplicative with respect to other services being provided to the recipient;
  7. Is not solely for the convenience of the recipient, the recipient's family, or a provider;
  8. With respect to prior authorization of a service and to other prospective coverage determinations made by the department, is cost-effective compared to an alternative medically necessary service which is reasonably accessible to the recipient; and
  9. Is the most appropriate supply or level of service that can safely and effectively be provided to the recipient.

The *Vision Care Services Provider Handbook*, P. R3-002, requires a “prior authorization request to EDS which documents the medical necessity of...tints...” It goes on to say that a “diagnosis of photophobia is not sufficient for approval of tints without additional justification of medical need by the prescribing provider.”

Furthermore, under Wis. Admin. Code § DHS 107.20(4), anti-glare lenses can never be approved.

There was no explanation to the Department by the provider as to why any of the upgrades or features beyond basic eyeglasses is medically necessary. At the hearing, petitioner submitted a fax from Jane Collins-Geers, MD which simply stated that petitioner “has medically indicated need for poly-card, photogray, and antireflective coating because she is monocular.” This may be enough of an explanation for the Department. But, I note that the anti-glare is still a non-covered item. I cannot overturn the

Department's denial based on this simple letter. The doctor does not explain anything but mere states a conclusion. I will not simply adopt a conclusion without a rationale based on a one-sentence fax. Perhaps the Department will. Petitioner may benefit by asking her provider to re-submit the PA request with this additional information. I affirm the Department denial.

### **CONCLUSIONS OF LAW**

The Department did not err in denying the request for non-contract frames including progressive multifocal lenses, tinting and anti-reflective coating.

**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 12th day of February, 2013

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\sJohn P. Tedesco  
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 February 12, 2013.

Division of Health Care Access And Accountability