



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/147601

PRELIMINARY RECITALS

Pursuant to a petition filed February 22, 2013, 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 (Division or DHCAA) in regard to Medical Assistance, a hearing was held on March 26, 2013, by telephone.

The issue for determination is whether the Division correctly denied a prior authorization request for breast reduction surgery.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By written submission of Richard Carr, M.D.
Division of Health Care Access and Accountability
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Vernon County. She is certified for MA/BadgerCare Plus.

2. On January 28, 2013, a prior authorization request was submitted on the petitioner's behalf for bilateral breast reduction surgery. The Division issued written notice of denial on February 6, 2013.
3. The Division's basis for denial was an appropriate amount of breast tissue must be removed from each breast.
4. The petitioner, age 22, is 5' 1" tall. She weighed 231 pounds at the time of the request, and currently weighs 227 pounds. Calculated body surface area (BSA) is 2.02m². Estimated tissue removal is 400-500 grams from each breast.
5. She wears a 42DD bra, although she asserts that no bra fits her well. The petitioner has chronic macromastia neck pain and migraines. She has received multiple injections to the neck and shoulders for pain. She also has shoulder grooving and rashes beneath the breasts (treated with creams).

DISCUSSION

The MA program pays for a variety of medical services listed in federal and state law, but does not pay for all types of medical services. See, Wis. Stat. § 49.46(2); Wis. Admin. Code § DHS 107.01, *et seq.* Some covered services must receive prior authorization; one of the prior authorization criteria is that the procedure must be "medically necessary" to treat the patient's condition. *Id.*, (e)(1).

A service is medically necessary if it is "required to prevent, identify or treat a recipient's illness, injury or disability..." Wis. Adm. Code, §HFS 101.03(96m)(a). To help determine whether a service is medically necessary, the department has issued guidelines found in the *Prior Authorization Guidelines Manual*.

The *Prior Authorization Guidelines Manual*, §117.006.02, requires the following for approval of breast reduction surgery:

- 1) Documentation that conservative treatment has been unsuccessful in alleviating clinical symptoms with a trial period of at least 3 months; *and*
- 2) An appropriate amount of breast tissue must be removed from each breast. (Determine by using criteria set forth by P.L. Schnur, MD, et al MS Reduction Mammoplasty: Costmetic [sic] or Reconstructive Procedure? *Ann Plast Surg* 1991 27:232-237.); *and*
- 3) Documentation of at least 4 medical signs/symptoms of macromastia, such as: postural backache (ICD-0 724.5, 781.9), upper back and neck pain (ICD-9 724.1, 723.1), chronic breast pain due to breasts (ICD-9: 611.71), "true hypertrophy" (ICD-9 611.1), intertrigo (severe and intractable inflammation and/or infection in the fold beneath the breasts) (ICD-9 695.89), shoulder grooving and kyphosis (ICD-9 737.10), gross asymmetry of the breasts or absence of a breast, resulting from resection of the opposite breast due to cancer or infection.

The DHCAA denied this request because insufficient tissue was proposed to be removed. The DHCAA based its finding upon petitioner's height and weight, which gives her a body surface area of 2.02m². Using the Schnur scale, tissue to be removed should at least equal the 22nd percentile. The 22nd percentile of someone with body surface area of 2.02m² is approximately 650 grams per breast. If the petitioner's current weight of 227 pounds is entered into the calculation, the body surface number is 2.01, which requires removal of at least 628 grams per breast. The DHCAA is saying that removing only 500 grams of tissue in petitioner's case is insufficient. The Schnur criteria are listed on the following website: http://www.bcbst.com/mpmanual/The_Schnur_Sliding_Scale_chart.htm.

Based on the above, the DHCAA was correct to deny prior authorization for payment by the MA program for breast reduction surgery. Although breast reduction surgery will offer cosmetic improvement for the petitioner, there is insufficient evidence to conclude that the surgery is a medical necessity for the petitioner at this time. I also note that the surgeon's notes from January 2013 in the authorization request indicate that there is no guarantee that this surgery will relieve all of the petitioner's pain and bra fitting problems, due to her ongoing obesity. See, Exhibit 2.

CONCLUSIONS OF LAW

The DHCF correctly denied the requested breast reduction surgery because the request does not document that petitioner meets the approval criteria.

THEREFORE, it is

ORDERED

That the petition 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 28th day of March, 2013

\sNancy J. Gagnon
Administrative Law Judge
Division of Hearings and Appeals
MPAsurgBreast



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on March 28, 2013.

Division of Health Care Access And Accountability