



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MPA/147945

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**PRELIMINARY RECITALS**

Pursuant to a petition filed March 09, 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 in regard to Medical Assistance, a telephone hearing was held on March 28, 2013.

The issue for determination is whether the petitioner is entitled to medical assistance reimbursement for surgery to remove excessive skin from her arms.

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

Written Appearance by: Richard M. Carr, MD, MS  
Division of Health Care Access and Accountability  
1 West Wilson Street, Room 272  
P.O. Box 309  
Madison, WI 53707-0309

**ADMINISTRATIVE LAW JUDGE:**

Peter McCombs  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Lafayette County.

2. On February 12, 2013, the petitioner with her physician, Dr. Clifford King, requested authorization to remove excessive skin from petitioner's arms. The cost of the requested surgery is \$5,822.00. The respondent denied her request on or about February 18, 2013.
3. The petitioner's prior authorization request does not document any functional problems related to the excessive skin, and there is no evidence of conservative treatment attempts by petitioner or her provider.

### DISCUSSION

The petitioner requests authorization under Wis. Admin. Code, § DHS 107.06(2), for removal of excessive skin from her stomach area. The relevant criteria for determining whether this request is necessary are found in § DHS 107.02(3)(e) (e), which requires the division to consider the following factors:

1. The medical necessity of the service;
2. The appropriateness of the service;
3. The cost of the service;
4. The frequency of furnishing the service;...
6. The extent to which less expensive alternative services are available;...

The key factor is "medical necessity," which is defined in the administrative code as any MA service under chapter 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.

Wis. Admin. Code, § DHS 101.03.

The petitioner testified that she has gained approximately 130 pounds in the last two decades. This has led to excessive skin on her arms, which she says causes discomfort, including pinching and rubbing while she sleeps. Although I found her testimony credible, the medical information included with her request contained no information that the surgery would be for a medical rather than just a cosmetic purpose.

The Prior Authorization Request prepared by her physician, stated in pertinent part:

- C. Supply justification for service or procedure requested.

Assessment plan. 61-year-old female who presents to discuss a brachioplasty. She is asking that insurance pay for this procedure. I told her that historically this is not a procedure covered by insurance. Nonetheless I will attempt to prior authorized procedure (sic). Procedure would be done as an outpatient under general anesthesia. Would require liposuction along with direct excision of skin. ...

Exhibit 2.

The petitioner has the burden of proving by the preponderance of the credible evidence that the requested surgery is medically necessary. She cannot meet this burden when her medical record does not note any functional problems related to the excessive skin, and there is no evidence of conservative treatment attempts by petitioner or her provider. The petitioner's position is further weakened by her own doctor's professed skepticism, based upon past experience, that medical assistance would approve her request. Therefore, I must deny the request because she has not shown that the surgery would be medically necessary.

Medical Assistance is intended to cover only basic and necessary medical needs. I note to the petitioner that she can file a new request for this procedure in the future, but if she does she will need medical documentation supporting her claim that this surgery is meant to do more than improve her appearance, and that other treatment options have been explored.

### **CONCLUSIONS OF LAW**

The respondent correctly denied the petitioner's request for surgery to remove excessive skin because she has not proved that the 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 15th day of April, 2013

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\sPeter McCombs  
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 April 15, 2013.

Division of Health Care Access And Accountability