



FH

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

---

In the Matter of

██████████  
c/o ██████████  
████████████████████  
████████████████████

DECISION

MPA/148535

---

**PRELIMINARY RECITALS**

Pursuant to a petition filed April 03, 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 hearing was held on May 22, 2013, at New Richmond, Wisconsin.

The issue for determination is whether the petitioner's provider may receive reimbursement for MRIs performed more than a month before they were requested.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

██████████  
c/o ██████████  
████████████████████  
████████████████████

Respondent:

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

By: Robert Derindinger, R.N.  
Division of Health Care Access and Accountability  
1 West Wilson Street, Room 272  
P.O. Box 309  
Madison, WI 53707-0309

**ADMINISTRATIVE LAW JUDGE:**

Michael D. O'Brien  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. The petitioner is a resident of St. Croix County.

2. The petitioner received MRIs of his head, cervical spine, thoracic spine, and lumbar spine on February 15, 2013.
3. The petitioner's provider, Dr. Michael Healy of [REDACTED] in [REDACTED] [REDACTED], requested prior authorization for the four MRIs on March 19, 2013. The Office of Inspector General denied the request on that date.

### DISCUSSION

Medical assistance covers physician-prescribed diagnostic services if they are consistent with good medical practices. Wis. Admin. Code, §§ DHS 107.06(1) and 107.25. To help ensure that CT, MRI, MRA, and PET scans are consistent with good medical practice, the Division of Health Care Access and Accountability, under authority granted by Wis. Admin. Code, § DHS 107.02(3)(a), began requiring prior authorization before paying for them. It announced this requirement to providers in October 2010 through *MA Update*, #2010-92.

The petitioner received four MRIs on February 15, 2013, but his provider did not submit a request for them until March 19, 2013. Wis. Admin. Code, § DHS 107.02(3)(c) states: "If prior authorization is not requested and obtained before a service requiring prior authorization is provided, reimbursement shall not be made except in extraordinary circumstances such as emergency cases where the department has given verbal authorization for a service." There was no emergency here: according to the petitioner, his provider told him that he "screwed up." This means that the provider is not entitled to reimbursement for the procedures. His provider appeared to acknowledge this: the petitioner indicated that he was told not to worry about the bill. This assurance is consistent with Wis. Admin. Code, § DHS 104.01(12)(c), which states, "Negligence on the part of the certified provider in the prior authorization process shall not result in recipient liability."

### CONCLUSIONS OF LAW

The petitioner's provider cannot receive reimbursement for the MRIs provided to the petitioner on February 15, 2013, because it did not submit its request for the MRIs before providing them.

**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 4th day of June, 2013

---

\sMichael D. O'Brien  
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 June 4, 2013.

Division of Health Care Access And Accountability