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

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In the Matter of

██████ ██████  
██████████████████  
████████████████████

DECISION

MPA/148574

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**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 23, 2013, at Barron, Wisconsin.

The issue for determination is whether the petitioner is entitled to medical assistance reimbursement for a bilateral breast reduction and removal of excessive skin from her thigh area.

The following persons appeared at the hearing:

**PARTIES IN INTEREST:**

Petitioner:

██████ ██████  
██████████████████  
████████████████████

Respondent:

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

By: Dr. Richard M. Carr  
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 Barron County.

2. On February 19, 2013, the petitioner requested authorization for a bilateral breast reduction at a cost of \$6,994 and removal of excessive skin from her thighs at a cost of \$4,021. The Office of Inspector General denied the request on March 1, 2013.
3. The prior authorization request does not include the petitioner's height and weight.
4. The only information in the prior authorization request concerning the need for surgery to remove excessive skin on the petitioner's thighs states the following:

[Petitioner] has done well with her recovery from her thigh lift surgery and liposuction of the trunk. Her only complaint is related to some soft tissue redundancy on the left thigh. This is in the upper part of the incision along the groin crease. She states that due to irregularity of the scar in that area the tissue folds and pinches within the line of her underwear. She is hoping that a revision would relieve that problem.

### DISCUSSION

The petitioner requested prior authorization for surgeries to reduce her breast size and to remove excessive skin from her thigh areas. To receive either, she must show that it is medically necessary. A service is medically necessary if it is "[r]equired to prevent, identify or treat a recipient's illness, injury or disability..." A service is not medically necessary if it is provided purely for cosmetic reasons. Wis. Admin. Code § DHS 101.03(96m).

Breast reductions must meet the following criteria *Prior Authorization Guidelines Manual*, § 117.006.02 to be found medically necessary:

- 1) Documentation that conservative treatment has been unsuccessful in alleviating clinical symptoms with a trial period of at least 3 month; *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: Cosmetic [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 Office of Inspector General denied the petitioner's request for breast reduction surgery because it contends that her prior authorization did not include her height and weight, making it impossible to determine whether she met the Schnurr criteria. Although the petitioner testified movingly about the problems caused by her breast size, the Office correctly states that her prior authorization omit basic medical information needed to determine if the surgery meets the Schnurr criteria. When the provider fails to include this type of information, it deprives the administrative law judge, who is a lay person in regard to medicine, of an informed opinion from the Office. The petitioner and her provider have the burden of proving by the preponderance of the credible evidence that this surgery is necessary. They cannot meet this burden without the provider including the basic information it left out of the request for breast reduction surgery.

The request for removal of excessive skin from the petitioner's thigh region also lacks essential information. The only information in the prior authorization request concerning the need for surgery to remove excessive skin on her thighs states the following:

[Petitioner] has done well with her recovery from her thigh lift surgery and liposuction of the trunk. Her only complaint is related to some soft tissue redundancy on the left thigh. This is in the upper part of the incision along the groin crease. She states that due to irregularity of the scar in that area the tissue folds and pinches within the line of her underwear. She is hoping that a revision would relieve that problem.

This gives no indication of severity of the problem. Nor does it indicate what steps have been taken to alleviate it. Finally, it provides no assurance that her physician believes that it will accomplish what the petitioner hopes it will accomplish. As with the request for a breast reduction, the petitioner testified ably, but there simply is no medical justification provided by a medical expert. Moreover, when determining whether to approve a service, the agency must consider not only whether it medical necessity but also its cost and the extent to which less expensive alternative services are available, Wis. Admin. Code, § DHS 107.02(3)(e)3. and 6. The requested skin removal costs \$4,021. Without some indication of the severity of the problem or what cheaper options can and cannot be done to alleviate it, there is no way to determine if this is a medically necessary and cost-effective procedure. As a result, I must find that the petitioner has failed to prove that the surgery is necessary.

### **CONCLUSIONS OF LAW**

The Office of Inspector General correctly denied the petitioner's request for surgeries to reduce her breast size and remove excessive skin from her thighs because she has not proven that they are cost-effective or medically necessary.

**THEREFORE, it is**

**ORDERED**

That 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 11th day of June, 2013

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\sMichael D. O'Brien  
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 June 11, 2013.

Division of Health Care Access And Accountability