



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/148760

PRELIMINARY RECITALS

Pursuant to a petition filed April 16, 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 Port Washington, Wisconsin.

The issue for determination is whether the agency properly denied the Petitioner's request for prior authorization (PA) for a brain MRI.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

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

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

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

2. On March 4, 2013, the Petitioner had gall bladder surgery. Following surgery, she experienced vertigo, nausea and bilateral blurred vision. While in the emergency room on March 7, 2013, the Petitioner had a head CT which was normal.
3. On March 8, 2013, a PA request was submitted by the provider on behalf of the Petitioner requesting a brain MRI.
4. On March 8, 2013, a brain MRI was completed during an office visit.
5. On March 11, 2013, the agency's medical consultant completed a review of the request and denied the request.
6. On April 16, 2013, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

By law, MA pays only for medically necessary and appropriate health care services when provided to currently eligible MA recipients. Wis. Admin. Code §§ DHS 107.01(1) (May 2009); See also, Wis. Stat. §§ 49.46(2) & 49.47(6)(a) (2009-10). In order for a service to be "medically necessary" it must meet several specific requirements. See, Wis. Admin. Code § DHS 101.03(96m) (December 2008). One of the specific requirements for "medical necessity" is that the requested service must be required to prevent, identify, or treat a recipient's illness, injury, or disability. Wis. Admin. Code § HFS 101.03(96m)(a) (December 2008).

Physician-prescribed diagnostic services can be covered by MA, if they are consistent with good medical practice. Wis. Admin Code §§DHS 107.06(1) and 107.25. The DHCAA/OIG has made payment of CT, MRI, and PET scans subject to prior authorization, in an effort to determine if they are being ordered consistent with good medical practice. This prior authorization requirement was announced to providers in an MA Update, #2010-92, issued to all providers in October, 2010.

The Department, by MedSolutions, presented clinical guidelines for providers that establish when a brain MRI is appropriate. These guidelines are set forth in MedSolutions Head Imaging Guidelines Section HD-29, HD-30 and HD-33. The guidelines at HD-29.1 state that a brain MRI is indicated in place of a head CT if stroke or TIA is strongly suspected. At HD-33, the guidelines state that a brain MRI may be indicated with vertigo that is accompanied by ataxia or falling. In addition, a neurological examination should be the initial step.

In this case, there is no indication that a neurological examination took place. There was also no indication of stroke or TIA, ataxia or falling. The agency properly denied the PA request for not meeting the guidelines for a brain MRI.

However, I also note that the Petitioner should not be responsible for the cost of the brain MRI based on Wis. Admin. Code § DHS 104.01(12)(2)(c) which states:

When a service must be prior authorized by the department in order to be covered, the recipient may not be held liable by the certified provider unless the prior authorization was denied by the department and the recipient was informed of the recipient's personal liability before provision of the service. In that case, the recipient may request a fair hearing. Negligence on the part of the certified provider in the prior authorization process shall not result in recipient liability.

The Petitioner testified that she was not informed prior to the brain MRI that the service had not been authorized and was not informed of her personal liability. If this is accurate, the Petitioner may not be held liable for the cost of the brain MRI by the provider.

A note to the Petitioner: this decision is not issued to the provider. You may provide a copy of this decision to your provider.

CONCLUSIONS OF LAW

The agency properly denied the PA request for a brain MRI. The Petitioner may not be held liable for the cost of the brain MRI if the provider did not inform her that the service had not been authorized and that she would be personally liable.

THEREFORE, it is ORDERED

That the petition be, and hereby 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 Milwaukee,
Wisconsin, this 1st day of July, 2013

\sDebra Bursinger
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 July 1, 2013.

Division of Health Care Access And Accountability