



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

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DECISION

MPA/149058

PRELIMINARY RECITALS

Pursuant to a petition filed April 26, 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 Ellsworth, Wisconsin.

The issue for determination is whether the petitioner is entitled to medical assistance reimbursement for medical images.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

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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 Pierce County.
2. The petitioner fell and injured her head in October 2012. She received an MRI of her head on October 17, 2012.

3. The petitioner with her physician requested an MRI of her head with and without contrast and an MRA of her head without contrast on March 6, 2013. Med Solutions initially denied the request that day.
4. The petitioner received an MRI of her head with and without contrast and an MRA of her head without contrast on March 7, 2013. At that point, Med Solutions had not received adequate information to make a final decision.
5. The petitioner did not face a medical emergency or extraordinary circumstances on March 7, 2013.

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. In an effort to ensure that CT, MRI, MRA, and PET scans are consistent with good medical practice, the Division of Health Care Access and Accountability requires prior authorization before paying for them. It announced this requirement to providers in October 2010 through *MA Update*, #2010-92.

The petitioner fell and injured her head in October 2012. An MRI of her head was performed on October 17, 2012. In order to determine her status, on March 6, 2012, her physician requested an MRI with and without contrast and an MRA without contrast. Med Solutions, which reviews these matter for the Department, denied the request that day because it did not contain enough information to determine whether it was necessary. The tests were performed the next day. The provider did not submit any more information before performing the test. There is no evidence that the petitioner faced a medical emergency or that there were any extraordinary circumstances.

Rules governing prior authorizations state: “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.” Wis. Admin. Code, § DHS 107.02(3)(c). Section DHS 107.02(3)(c) is not absolute. Section DHS 106.03(4)(a), which is found in the chapter in the administrative code pertaining to the provider’s rights and responsibilities, allows an exception to this general rule “[w]here the provider's initial request for prior authorization was denied and the denial was either rescinded in writing by the department or overruled by an administrative or judicial order.” This is not an open-ended invitation to submit a request at any time; such a reading would eviscerate Wis. Admin. Code, § DHS 107.02(3)(c). Rather, the two provisions must be harmonized.

I have reviewed the information submitted to Med Solutions and agree that it provides little justification for the request. Given that there was no emergency or even extraordinary circumstances, I see no reason why the provider could not have waited until it submitted more information or until this matter had been adjudicated to provide the MRI. Therefore, I will uphold the denial.

I note that the petitioner cannot be held liable for these services. Wis. Admin. Code, § DHS 104.01(12)(c). I also note to the Office of Inspector General that its citation to this provision on page 4 of its letter to the petitioner and me is incorrect.

CONCLUSIONS OF LAW

The petitioner’s provider is not entitled to reimbursement for MRA and MRIs performed on March 6, 2013, because that provider did not obtain authorization before obtaining the images.

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 13th day of June, 2013

\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 13, 2013.

Division of Health Care Access And Accountability