



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

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In the Matter of

[REDACTED]  
[REDACTED]  
c/o [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MPA/150594

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**PRELIMINARY RECITALS**

Pursuant to a petition filed July 11, 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 August 21, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the request for Bright Beginnings Soy Pediatric Drink showed a need for the product, as required by MA policy.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
c/o [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

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

By: Lynn Radmer, R.Ph.  
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 an 8 year old resident of Milwaukee County.

2. Petitioner has eosinophilic esophagitis, attention deficit hyperactivity disorder, and is failing to thrive.
3. On May 3, 2013, ██████████ requested prior authorization for two cans of Bright Beginnings Soy Pediatric Drink per day, Prior Authorization (PA) no. ██████████
4. The PA request noted petitioner's diagnoses, and it was returned to the provider on May 3, 2013. The request was returned requesting additional supporting documentation. The petitioner's provider's prompt response indicated that petitioner needs 2 cans per day; he has restricted eating behaviors, and has not gained any weight in the last 2 years.
5. Neither the original submission nor the supplemental information provided by petitioner's provider included evidence that petitioner had an oral-pharyngeal tissue injury or defect, or that petitioner had a pathology that prevents digestion, absorption, or utilization of nutrients.
6. PA no. ██████████ was denied by respondent pursuant to a letter dated May 8, 2013.

### DISCUSSION

The Wisconsin Administrative Code, §DHS 107.10(2)(c) requires providers to seek prior authorization for food supplements. Products that do not meet the §107.10(2)(c) criteria are denied. §DHS 107.10(2)(c) states that medically necessary nutritional supplements used for the treatment of severe health conditions such as pathologies of the gastrointestinal tract or metabolic disorders can be covered by MA. The DHCAA drafted criteria for reviewing prior authorization requests for such supplements.

The prior authorization guidelines for food supplements such as Ensure Plus were changed in January, 2011; providers were notified in Forward Health Update no. 2011-88, effective January 15, 2012. A supplement can be approved where the following disorders exist:

- A severe swallowing disorder due to oral-pharyngeal tissue injury, trauma, excoriation (i.e., lesions, mucositis), or defect.
- Pathology of the gastrointestinal (GI) tract that prevents digestion, absorption, or utilization of nutrients that cannot otherwise be medically managed.
- Transition from tube feeding (enteral or parenteral) to an oral diet.

In addition, the person must require the supplement because regular foods cannot be ingested to provide sufficient nourishment. The policy specifically disallows coverage for swallowing disorders that are behavioral, neurological, or psychological in nature. The DHCAA denied the request because documentation did not support the need for the supplement.

The DHCAA case summary notes that eosinophilic esophagitis is a condition involving an inflammatory process in the esophagus caused by certain food/triggers. The standard treatment is to eliminate the triggers from the diet. The DHCAA complained that it lacks information on petitioner's diet and history to determine if the triggers had been searched for. The DHCAA also noted several discrepancies in the information provided, such as a recommendation of 1 can per day versus a prescription for 2 cans per day, and an indication that all milk products must be avoided versus instructions the petitioner may have some foods that have milk as an ingredient.<sup>1</sup> As a result, the PA request has not established the medical necessity of the requested enteral nutrition product.

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<sup>1</sup> See, Exhibit 2; Feeding Discharge Plan versus 5/1/13 prescription, and Feeding Discharge Plan versus 4/4/13 correspondence from Dr. Larson-Nath.

I conclude that the denial was correct. If the MA policy requires certain information for approval, then the provider needs to present that information. I urge petitioner's mother to take the DHCAA case summary dated August 7, 2013, to petitioner's providers. If a case can be made for the need for Bright Beginnings Soy Pediatric Drink, the providers should utilize the recommendations in that case summary to file a new prior authorization request that shows the need for Bright Beginnings Soy Pediatric Drink based upon the MA policy requirements.

### **CONCLUSIONS OF LAW**

The DHCAA correctly denied a request for Bright Beginnings Soy Pediatric Drink because the request did not adequately document the need for the product.

**THEREFORE, it is**

**ORDERED**

That the petition for review herein be and the same is hereby 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. [REDACTED] 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 2nd day of October, 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 October 2, 2013.

Division of Health Care Access And Accountability