



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MPA/151047

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**PRELIMINARY RECITALS**

Pursuant to a petition filed July 29, 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 28, 2013, at Superior, Wisconsin.

The issue for determination is whether the petitioner is entitled to medical assistance reimbursement for an MRI of his shoulder with contrast.

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 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 (CARES # [REDACTED]) is a resident of Douglas County.
2. The petitioner requested an MRI of his shoulder with contrast on June 18, 2013. The Division of Health Care Access and Accountability denied the request on June 19, 2013.

3. The petitioner has had several falls since undergoing a total hip arthroplasty in 1986. These falls have led to shoulder injuries, including one to his left shoulder in 2009. He did not receive treatment for this injury because he could not afford it.
4. An MRI of the petitioner's right shoulder was performed in May 2012. He has not received an MRI of his left shoulder.
5. An X-ray of the petitioner's shoulder was performed in February 2013. It indicated an old distal clavicle fracture with shoulder separation.
6. The petitioner's left shoulder is currently being treated with hydrocodone and naproxen.
7. The petitioner requires further hip surgery.
8. The petitioner's physician, Dr. Jeffry Klassen, MD, entered the following note on February 7, 2013:

I suggested that [petitioner] proceed with surgery on the hip first so that he can gain stable hips so he does not continue to fall, prior to proceeding with any surgery on his shoulders. My concern would be that if we operate on his shoulders first and then had a subsequent hip dislocation and fall, he would ruin any potential work performed on the shoulders. Once he is adequately rehabilitated from his hip surgery, we would then consider discussions regarding treatment for both shoulders at that time.

### DISCUSSION

Medical assistance covers physician-prescribed diagnostic services if they are consistent with good medical practices. Wis. Adm. Code, §§ DHS 107.06(1) and 107.25. In an effort to ensure that CT, MRI, 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. There are several reasons for requiring prior authorization, the most important of which when evaluating imaging requests are "to safeguard against unnecessary or inappropriate care and service; to safeguard against excess payments;...and to determine if less expensive alternative care, services or supplies are usable..." Wis. Admin. Code, § DHS 107.02(3)(b)1., 2., and 4."

When determining whether a service is necessary, the Department must review, among other things, the medical necessity, appropriateness, and cost of the service; the extent to which less expensive alternative services are available; whether the service is an effective and appropriate use of available services; and the limitations imposed by pertinent federal or state statutes, rules, regulations or interpretations, including Medicare, or private insurance guidelines. Wis. Admin. Code, § DHS 107.02(3)(e)1., 2., 3., 6., 7., and 9.

"Medically necessary" means a medical assistance service under ch. HFS 107 that is:

- (a) Required to prevent, identify or treat a recipient's illness, injury or disability; and
- (b) Meets the following standards:
  1. Is consistent with the recipient's symptoms or with prevention, diagnosis or treatment of the recipient's illness, injury or disability;
  2. Is provided consistent with standards of acceptable quality of care applicable to the type of service, the type of provider, and the setting in which the service is provided;
  3. Is appropriate with regard to generally accepted standards of medical practice;
  4. Is not medically contraindicated with regard to the recipient's diagnoses, the recipient's symptoms or other medically necessary services being provided to the recipient;

5. Is of proven medical value or usefulness and, consistent with s. HFS 107.035, is not experimental in nature;
6. Is not duplicative with respect to other services being provided to the recipient;
7. Is not solely for the convenience of the recipient, the recipient's family, or a provider;
8. With respect to prior authorization of a service and to other prospective coverage determinations made by the department, is cost-effective compared to an alternative medically necessary service which is reasonably accessible to the recipient; and
9. Is the most appropriate supply or level of service that can safely and effectively be provided to the recipient.

Wis. Admin. Code, § DHS 101.03(96m).

The petitioner has had an artificial hip since 1986. This has proved unstable, leading to many falls and injuries to both shoulders. He seeks an MRI to determine the nature of the injury to his left shoulder. It was denied in part because he allegedly had an MRI a month before the request. The Division of Health Care Access and Accountability now admits that his previous MRI was of his right shoulder. It also indicates that he might be entitled to an MRI, although without contrast. Regardless of whether he needs one, MRIs for shoulder problems such as the petitioner's generally are not performed until just before surgery. *See Musculoskeletal Guidelines, Shoulder (MS-20)*. The petitioner contends will be receiving further hip surgery and that he needs shoulder surgery first so that he can walk on crutches after the hip surgery. While I understand his position, it contradicts his doctor's, which is expressed in the following February 7, 2013, practice note:

I suggested that [petitioner] proceed with surgery on the hip first so that he can gain stable hips so he does not continue to fall, prior to proceeding with any surgery on his shoulders. My concern would be that if we operate on his shoulders first and then had a subsequent hip dislocation and fall, he would ruin any potential work performed on the shoulders. Once he is adequately rehabilitated from his hip surgery, we would then consider discussions regarding treatment for both shoulders at that time.

Based upon his physician's statement, I am going to deny the request because the petitioner has not met his burden of showing it is currently medically necessary. No MRI is needed until he is ready to have shoulder surgery. If he receives an MRI now, he may later fall and further injure his shoulder, making the MRI ineffective in diagnosing his condition. I am aware that his physician may change his mind and allow him to receive the shoulder surgery before hip surgery. However, I must determine this matter on the evidence I have in front of me now. If the facts change, or when the petitioner is ready to have surgery, nothing prevents his provider from submitting a new request.

### **CONCLUSIONS OF LAW**

The requested MRI is not currently medically necessary.

**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 3rd day of October, 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**

Wayne J. Wiedenhoef, Acting Administrator  
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 October 3, 2013.

Division of Health Care Access And Accountability