



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/152265

PRELIMINARY RECITALS

Pursuant to a petition filed September 21, 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 ["DCHAA"] in regard to Medical Assistance ["MA"], a Hearing was held via telephone on November 11, 2013.

The issue for determination is whether petitioner is eligible for payment by the MA program for breast reduction surgery.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Richard M. Carr, MD, MS, Physician Consultant [Dr. Carr did not appear at the November 11, 2012 Hearing, but instead submitted a letter dated October 2, 2013.]

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

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Fond Du Lac County.

2. Petitioner's provider, [REDACTED] MD of Fond du Lac, Wisconsin, requested Prior Authorization ["PA"] (PA # [REDACTED] dated July 18, 2013) for MA coverage of bilateral breast reduction surgery (both breasts) for petitioner; the estimated amount of tissue that was to be removed is 450 grams per breast.
3. DHCAA denied the PA request and sent petitioner a letter dated August 19, 2013 and entitled *BadgerCare Plus Notice of Appeal Rights* informing her of the denial.
4. Petitioner is 5 feet and 9 ½ inches tall and weighs 200 pounds; she has a Body Surface Area ["BSA"] of 2.08 square meters.

DISCUSSION

Breast reduction is a surgical procedure to remove excess tissue from breasts. Petitioner requests the reduction because she has experienced ailments including breast hypertrophy, chronic pain in her back, shoulders, and breast, grooves in shoulders from her bra straps, inframammary folds, and rash. This has been documented by her medical doctors.

Breast reduction surgery requires Prior Authorization ["PA"]. Wis. Admin. Code § DHS 107.06(2)(zb) (May 2009). There are several criteria that must be satisfied before PA for breast reduction surgery can be approved, including all of the following:

- (1) documentation showing that conservative treatment has been unsuccessful in alleviating clinical symptoms with a trial period of at least 3 months; and,
- (2) an appropriate amount of breast tissue must be removed from each breast. [Determined by using criteria set forth by in the *Schnur Sliding Scale Chart*. See, Schnur PL, Hoehn JG, Ilstrup DM, et al. Reduction mammoplasty: Cosmetic or reconstructive procedure? *Annals Plastic Surg.* 1991;27(3):232-237.]; and,
- (3) Documentation of at least 4 medical signs/symptoms of macromastia, such as: postural backache, upper back and neck pain, chronic breast pain due to breasts, "true hypertrophy", intertrigo (severe and intractable inflammation and/or infection in the fold beneath the breasts), shoulder grooving and kyphosis, gross asymmetry of the breasts or absence of a breast resulting from resection of the opposite breast due to cancer of infection.

Prior Authorization Guidelines Manual, 117.006.02.II.A. (02/20/03); See also, Wis. Admin. Code § DHS 107.02(3)(e)9. (November 2007).

The *Schnur Sliding Scale Chart*, based on petitioner's BSA of 2.08 square meters, dictates approximately 700 grams of tissue per breast must be removed before there is a medical rationale for the procedure. In petitioner's case, the estimated amount of tissue that is to be removed is 450 grams per breast. Therefore, DHCAA was correct to deny PA for payment by the MA program for breast reduction surgery.

CONCLUSIONS OF LAW

For the reasons discussed above, petitioner is not eligible for payment by the MA program for breast reduction surgery.

NOW, 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. 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, Room 651, 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 December, 2013

\sSean P. Maloney
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 December 3, 2013.

Division of Health Care Access And Accountability