



STATE OF WISCONSIN  
Division of Hearings and Appeals

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

HMO/153360

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**PRELIMINARY RECITALS**

Pursuant to a petition filed November 08, 2013, under Wis. Stat. § 49.45(5)(a), and Wis. Admin. Code § HA 3.03, to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance, a hearing was held on December 03, 2013, at Racine, Wisconsin.

The issue for determination is whether the agency properly affirmed an HMO denial of Petitioner's request for an exemption for mental health treatment.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

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

By: Meri DeGarmo, Nurse Consultant  
Division of Health Care Access and Accountability

Madison, WI

**ADMINISTRATIVE LAW JUDGE:**

Debra Bursinger  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is a resident of Racine County.
2. Petitioner is a 7 year old year child. He is diagnosed with ADHD with a history of aggression.

3. Petitioner is currently enrolled in a BadgerCare HMO, specifically Molina HMO.
4. On October 19, 2013, the Petitioner's father submitted a mental health exemption request to continue to see [REDACTED] for treatment.
5. On October 23, 2013, the agency issued a notice to the Petitioner's father that the Petitioner can continue to see [REDACTED] without an exemption because he is in the provider network for the Petitioner's HMO.
6. On November 8, 2013, an appeal was filed on the Petitioner's behalf with DHA.

### **DISCUSSION**

A BadgerCare recipient may submit an exemption request to be exempted from HMO enrollment for treatment of a specific condition.

The Petitioner's father testified at the hearing that the Petitioner needs more treatment than what the HMO will provide to him.

The agency testified that the duration of treatment is unrelated to the purpose of an exemption request. Because the services requested are covered by the HMO and the provider is part of the network, an exemption request is not the proper remedy for the Petitioner if he wishes to receive additional treatment.

The agency testified that it will continue to work with the Petitioner to assist in obtaining all medically necessary services for the Petitioner. If the Petitioner's father disagrees with the decisions made with regard to treatment and services, the HMO has a grievance and appeal process that he may use to resolve any issues.

### **CONCLUSIONS OF LAW**

The agency properly denied the exemption request because the Petitioner is currently enrolled in an HMO and the provider is a network provider. An exemption request is not necessary.

**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, 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 Milwaukee,  
Wisconsin, this 22nd day of January, 2014

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\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 January 22, 2014.

Division of Health Care Access and Accountability