



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

In the Matter of

██████ & ██████
c/o ██████ & ██████
██████████████████
██████████████████

DECISION

MPA/154928

PRELIMINARY RECITALS

Pursuant to a petition filed January 16, 2014, 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 February 18, 2014, at Superior, Wisconsin.

The issue for determination is whether the petitioner is entitled to medical assistance reimbursement for a CT scan without contrast of the petitioner’s hips.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

██████ & ██████
c/o ██████ & ██████
██████████████████
██████████████████

Respondent:

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

By: Robert Derindinger
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 Douglas County.

2. On December 16, 2013, the petitioner with her physician requested a CT scan without contrast of her hips.
3. The petitioner is an eight-year-old girl diagnosed with autism, Down Syndrome, and hip subluxation.
4. The petitioner is scheduled for an operation on her right hip on May 19, 2014.
5. The petitioner had a CT scan of her hips performed on September 18, 2013. This scan revealed increased subluxation.
6. The request does not include documentation concerning why the previous scan was not sufficient for treating the petitioner and planning for her surgery. Nor did not provide specific information concerning how a new scan would alter the treatment of her.

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, under authority granted by Wis. Admin. Code, § DHS 107.02(3)(a), began requiring 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.” The guidelines pertaining to requests for imaging were drafted by MedSolutions, a private radiology benefits manager that claims to use evidence-based clinical guidelines derived from national medical associations.

When determining whether a service is necessary, MedSolutions 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 is an eight-year-old girl diagnosed with autism, Down Syndrome, and subluxation of her hips. She is scheduled to have surgery on her right hip on May 19, 2013. On September 18, 2013, she had a CT scan of her hip. Her physician now seeks another one without contrast. The Office of Inspector General denied the request because it lacked documentation concerning why the previous scan was not sufficient for treating the petitioner and planning for her surgery. It also lacked specific information concerning how a new scan would alter his treatment, including surgery, of her. At the hearing, the petitioner's father and a nurse did a good job of providing the information that the request lacked. Still, because the provider did not include this information on the request itself, the Office of Inspector General could not offer an informed opinion to the Division of Hearings and Appeals. Although administrative law judges routinely review prior authorization denials, they are not medical experts, so the lack of information on the request ultimately diminishes the Division's ability to make the proper decision. There are still more than two months before the scheduled surgery, so there is time to submit a new request and perform the scan before then. The requested scan is denied. I suggest that the petitioner's physician submit a new request that addresses the Office of Inspector General's concerns, including why the previous scan is inadequate and how a new scan can affect treatment.

CONCLUSIONS OF LAW

The petitioner's prior authorization request does not adequately support the medical necessity of a CT scan.

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, 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 5th day of March, 2014

\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 March 5, 2014.

Division of Health Care Access and Accountability