



STATE OF WISCONSIN  
Division of Hearings and Appeals

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In the Matter of

██████████  
██████████  
██████████

DECISION

MPA/156024  
MPA/156025

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**PRELIMINARY RECITALS**

Pursuant to a petition filed March 12, 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 April 17, 2014, at Kenosha, Wisconsin.

NOTE: The record was held open to obtain the denial letters sent to Petitioner and her physician. The denial letter for PA ██████████ was marked as Exhibit 4; the letter for PA ██████████ was marked as Exhibit 5 and the letter for PA ██████████ was marked as Exhibit 6.

The issue for determination is whether the Department of Health Services, Division of Health Care Access and Accountability, correctly modified Petitioner's request for MRI services by approving an MRI for one hand.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

██████████  
██████████  
██████████

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Respondent:

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

By: OIG by Letter

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

**ADMINISTRATIVE LAW JUDGE:**

Mayumi M. Ishii  
Division of Hearings and Appeals

### FINDINGS OF FACT

1. Petitioner is a resident of Kenosha County.
2. On February 14, 2014, the Petitioner's physician submitted a request for authorization for an "MRI Upper Extremity, other than joint; with contrast materials" because, "Left Hand Known or Suspected osteoarthritis, Rheumatoid Arthritis or Inflammatory Arthritis." This was Prior Authorization (PA) [REDACTED] (Exhibit 2, pgs. 6-9)
3. On that same date, the Petitioner's physician submitted a request for authorization for an "MRI Upper Extremity, other than joint, with contrast materials because, "Right Hand Known or Suspected Osteoarthritis, Rheumatoid Arthritis or Inflammatory Arthritis." This was PA [REDACTED] (Exhibit 2, pgs. 10-13)
4. On February 17, 2014, the Department of Health Services (DHS) sent the Petitioner and her physician letters indicating that the request for services was denied. (Exhibits 4 and 5)
5. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on March 12, 2014. (Exhibit 1)
6. On March 14, 2014, the Petitioner's physician submitted a request for MRIs of both hands, "Upper Extremity, other than joint, without contrast materials, followed by contrast materials and further sequences" in order to, "evaluate for inflammation, erosion or worsening of OA". This was PA [REDACTED] (Exhibit 2, pgs. 14-15)
7. On March 17, 2014, DHS sent the Petitioner and her physician letters indicating that it modified the PA request and approved an MRI of one hand. (Exhibit 6)

### DISCUSSION

Physician services are covered by Medical Assistance (Badger Care / Medicaid) if they are consistent with good medical practice. Wis. Admin. Code §DHS 107.06(1) Coverage of diagnostic services is address by Wis. Admin. Code §DHS 107.25:

- (1) COVERED SERVICES. Professional and technical diagnostic services covered by MA are laboratory services provided by a certified physician or under the physician's supervision, or prescribed by a physician and provided by an independent certified laboratory, and x-ray services prescribed by a physician and provided by or under the general supervision of a certified physician.
- (2) OTHER LIMITATIONS.
  - (a) All diagnostic services shall be prescribed or ordered by a physician or dentist.
  - (b) Laboratory tests performed which are outside the laboratory's certified areas are not covered.
  - (c) Portable x-ray services are covered only for recipients who reside in nursing homes and only when provided in a nursing home.
  - (d) Reimbursement for diagnostic testing services shall be in accordance with limitations set by P.L. [98-369](#), Sec. 2303.

Coverage of CT, MRI, and PET scans is subject to prior authorization, in an effort to determine whether they are being ordered consistent with good medical practice. This prior authorization requirement was announced to providers in an *MA Update*, #2010-92, issued to all providers in October, 2010. The triage of coverage is to be performed by the Department's agent, MedSolutions, as described in the written policy:

MedSolutions utilizes evidence-based clinical guidelines derived from national medical associations' recommendations to determine the medical necessity and appropriateness of the requested service(s). The guidelines are published on the MedSolutions Portal. MedSolutions will make a PA determination based on current ForwardHealth policy in conjunction with the MedSolutions guidelines. Providers are reminded that an approved PA does not guarantee reimbursement for the service.

*ForwardHealth Update* #2010-92, at p. 3 (October, 2010).

See Also Topics 10678 and 15477 in the on-line provider handbook:

<https://www.forwardhealth.wi.gov/WIPortal/Online%20Handbooks/Display/tabid/152/Default.aspx?ia=1&p=1&sa=86&s=3&c=625>

“In determining whether to approve or disapprove a request for prior authorization, the department shall consider:

1. The medical necessity of the service;
2. The appropriateness of the service;
3. The cost of the service;
4. The frequency of furnishing the service;
5. The quality and timeliness of the service;
6. The extent to which less expensive alternative services are available;
7. The effective and appropriate use of available services;
8. The misutilization practices of providers and recipients;
9. The limitations imposed by pertinent federal or state statutes, rules, regulations or interpretations, including medicare, or private insurance guidelines;
10. The need to ensure that there is closer professional scrutiny for care which is of unacceptable quality;
11. The flagrant or continuing disregard of established state and federal policies, standards, fees or procedures; and
12. The professional acceptability of unproven or experimental care, as determined by consultants to the department.”

Wis. Admin. Code §DHS107.02(3)(e)

“Medically necessary” means a medical assistance service under ch. DHS 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. DHS 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. Adm. Code. §DHS 101.03(96m)

In prior authorization cases, the Petitioner has the burden to prove, by a preponderance of the credible evidence that the requested services meet the approval criteria.

In the case at hand, Petitioner's physician requested an MRI of both hands to determine whether she is suffering from some form of inflammatory Arthritis. DHS agrees that an MRI of one hand is warranted, but states that an MRI of a second hand is not necessary / would not be useful to determine whether the Petitioner is suffering from inflammatory arthritis.

The Petitioner testified that she needs MRIs of both hands, because the pain in one hand might be related to an injury she suffered in the 1970's when she put her hand through a window and the pain in her right hand might be caused by injuries she suffered when she was battered in 2012. However, the prior authorization requests submitted by Petitioner's physician state that the purpose of the imaging is to determine whether Petitioner has Arthritis and to what degree. Although Petitioner's physician discusses deformity to Petitioner's hands in the PA request, he/she only refers to the deformities as "acquired" and states that there is no history of injury. (Exhibit 2, pgs. 14 and 15)

Based upon the foregoing, it is found that the record does not support the medical necessity of performing an MRI on both hands, at this time. Thus, DHS correctly modified the request for services.

The Petitioner should note that if, after receiving the MRI on one hand, her physician still feels a second MRI is necessary, he/she can file a new request for prior authorization of an MRI on the second hand.

### **CONCLUSIONS OF LAW**

DHS correctly modified the request for MRI Services by approving an MRI of one hand.

**THEREFORE, it is**

**ORDERED**

That the petition 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 15th day of May, 2014.

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\sMayumi M. Ishii  
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 May 15, 2014.

Division of Health Care Access and Accountability