



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION ON REHEARING

MPA/156576

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**PRELIMINARY RECITALS**

Pursuant to a petition filed April 02, 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 (Division) in regard to Medical Assistance (MA), a hearing was held on May 7, 2014, by telephone. A decision dismissing the appeal was issued on May 7, 2014. The petitioner timely requested a rehearing which was granted. After the rehearing request was granted, the petitioner submitted a physician statement verifying his surgery.

The issue for determination is whether the Division correctly denied a prior authorization request for a Magnetic Resonance Imaging (MRI) test.

There appeared at that time 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 written submission of Robert Derendinger, RN BSN  
(for May 2014 hearing only)  
Division of Health Care Access and Accountability  
1 West Wilson Street, Room 272  
P.O. Box 309  
Madison, WI 53707-0309

**ADMINISTRATIVE LAW JUDGE:**

Nancy J. Gagnon  
Division of Hearings and Appeals

### FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Rock County. He is certified for MA.
2. On March 24, 2014, a prior authorization request was submitted on the petitioner's behalf for an MRI test of the left shoulder, without contrast. The request was made by a non-hospital provider, Dr. [REDACTED]. The Department's agent denied the request, and written notice of denial was issued to the petitioner on March 25, 2014. The petitioner timely appealed.
3. The Division now requires prior authorization for MRI scans performed outside of a hospital. The Division's basis for denial was that the petitioner had not undergone six weeks of conservative therapy (e.g., physical therapy) prior to requesting an MRI test.
4. The petitioner, age 53, is a long time factory worker. He suffered no traumatic injury to his left shoulder, and has had no prior surgery on that shoulder.
5. The petitioner saw a physician on March 13, 2014. He complained of persistent left shoulder pain, of at least one month's duration. The MRI was performed on March 27, 2014 (after the Division's authorization denial).
6. The petitioner underwent a surgery – left rotator cuff repair and distal clavicle excision – on May 9, 2014.

### DISCUSSION

Physician-prescribed diagnostic services can be covered by MA, if they are consistent with good medical practice. Wis. Admin Code §§DHS 107.06(1) and 107.25. The Division has now decided to make payment of CT, MRI, and PET scans subject to prior authorization, in an effort to determine if 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 instant prior authorization request was denied because the Division has determined that the presumably less expensive conservative treatment should have been performed before resorting to the MRI. Because the Division's policy of requiring the cheaper conservative treatment before authorizing an MRI scan is reasonable, the MRI denial was upheld.

Mr. [REDACTED] testified that the MRI showed that he had severe rotator cuff damage that required surgical correction. His treating physician allegedly advised that conservative treatment would have been a waste of time and money. [REDACTED] testified that he has an approved rotator cuff surgery scheduled shortly. If this was so, with the benefit of hindsight, it was an acceptable outcome that the cost of futile conservative treatment was not incurred. However, at the time of hearing I had no documentation to corroborate what Mr. [REDACTED] was telling me, so I upheld the denial. As part of the rehearing process, the petitioner supplied confirmation from his physician that the shoulder surgery occurred.

*[Note to Petitioner: Your provider will not receive a copy of this Decision. In order to have the service requested here, you must provide a copy of this Decision to Dr. [REDACTED]'s office. The provider must then submit a new prior authorization request to receive the approved service.]*

### CONCLUSIONS OF LAW

1. The requested MRI of the shoulder, without contrast, was a medical necessity for the petitioner.

**THEREFORE, it is**

**ORDERED**

That Dr. [REDACTED] [REDACTED] or Mercy Health System Corp is hereby authorized to submit its claim for the March 27, 2014 MRI, along with a new prior authorization request and a copy of this Decision, to ForwardHealth for payment.

**APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,  
Wisconsin, this 2nd day of July, 2014

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\sNancy J. Gagnon  
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 July 2, 2014.

Division of Health Care Access and Accountability