



STATE OF WISCONSIN  
Division of Hearings and Appeals

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MPA/158077

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**PRELIMINARY RECITALS**

Pursuant to a petition filed May 30, 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 telephone hearing was held on July 15, 2014.

The issue for determination is whether the respondent correctly denied petitioner's request for a CT scan of her pelvis.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

I

Respondent:

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

Written Appearance by: Robert Derendinger, RN, BSN  
Division of Health Care Access and Accountability  
1 West Wilson Street, Room 272  
P.O. Box 309  
Madison, WI 53707-0309

**ADMINISTRATIVE LAW JUDGE:**

Peter McCombs  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is a resident of Milwaukee County.
2. Petitioner reports a 10 year history of irregular menses, and has a past medical history of hirsutism.

3. The respondent initially denied the petitioner's request for a CT scan of the pelvis on May 1, 2014. The denial was subsequently confirmed by peer-to-peer review.

### **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 petitioner requested a CT scan of her pelvis with contrast. The respondent denied the request determining that it was not medically necessary, in accordance with the respondent's Pelvic Imaging Guidelines. Specifically, the respondent noted that:

The prior authorization did not document a recent transvaginal ultrasound and no lab studies have been completed. ... The guidelines do support repeat ultrasound imaging after 6 weeks or following a menses to determine resolution. Repeat ultrasound imaging has not been completed in this case. ... In her appeal letter, [petitioner] expresses that her primary concern is the risk of cancer due to her extensive family history; however, no labs have been completed to rule out the possibility of cancer. As noted in the guidelines above, tumor marker CA 125 and other markers should be completed in the evaluation of a pre-menopausal woman with an abnormal ultrasound. Furthermore, advanced imaging is not expected to affect the management of member's condition.

Exhibit 3.

The respondent conceded that the respondent's denial may have been correct in light of its approval guidelines, but argued that she needs this test due to her family's history of cancer. The petitioner has in effect argued that the program standard is unfair and that the administrative law judge should grant her relief from the program requirements. It is the long-standing policy of the Division of Hearings & Appeals, Work & Family Services Unit, that the Department's assigned administrative law judges do not possess equitable powers. See, Wisconsin Socialist Workers 1976 Campaign Committee v. McCann, 433 F.Supp. 540, 545 (E.D. Wis.1977). This office must limit its review to the law as set forth in statutes, federal regulations, and administrative code provisions. The petitioner has not established an error in the denial determination of the respondent, and therefore I must affirm that denial.

### **CONCLUSIONS OF LAW**

The respondent correctly denied petitioner's request for a CT scan of her pelvis because the procedure was not medically necessary.

**THEREFORE, it is**

**ORDERED**

The petitioner's appeal is dismissed.

## REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or 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 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 28th day of August, 2014.

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\sPeter McCombs  
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 August 28, 2014.

Division of Health Care Access and Accountability