



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/159303

PRELIMINARY RECITALS

Pursuant to a petition filed July 23, 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 September 08, 2014, at Janesville, Wisconsin.

The issue for determination is whether the Department correctly denied the PA request for lumbar MRI.

There appeared at that time and place 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: Robert Derendinger, RN (in writing)
Division of Health Care Access and Accountability
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Rock County.
2. Petitioner's provider submitted a PA request for a spine MRI on 7/14/14.
3. The documentation submitted with the request indicated the physician saw petitioner for a two-week follow-up visit on 7/10/14.

4. The Department denied the request on 7/14/14.
5. The provider sought reconsideration by the Department on 7/15/14 but submitted no additional documentation.
6. Petitioner appealed the denial.

DISCUSSION

Physician-prescribed diagnostic services can be covered by MA, if they are consistent with good medical practice. WIS. ADMIN. CODE Chapter DHS §§ 107.06(1) and 107.25. The Department 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 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).

The Department, by MedSolutions, presented clinical guidelines for providers that establish when an MRI is appropriate in the case of lumbosacral radiculopathy. See exhibit #1. These guidelines are set forth in *MedSolutions Spine Imaging Guidelines Section SP-3 - Lumbar Radiculopathy*. Subsection *SP-3.1* sets forth the various circumstances in which an MRI may be considered. These include: a failed 6-week period of physician-guided clinical care with documented re-evaluation (see *SP-1.1*), or "red flags" as set forth in *SP-1.2* which include cancer, fracture, aortic aneurysm, and other conditions that do not appear to apply based on the record. Therefore, the MRI is indicated if the failure of the six-week clinical care can be demonstrated.

I have reviewed the documentation provided by the physician supporting the request. In fact, I found the documentation so sparse that I, with the consent of petitioner, contacted the Department to obtain the entire submission. The nurse consultant explained to this ALJ that the July 10 progress note was the only documentation supplied by the provider. This note fails to support the request. It does not demonstrate a six-week course of treatment or any "red flags" as required. The note only demonstrates that the visit was a two-week follow-up.

If the provider can demonstrate a failed six-week treatment as set forth in the guidelines, the provider may re-submit the PA request. The request was correctly denied because the provider clearly failed to meet the published guidelines.

CONCLUSIONS OF LAW

The Department did not err in denying the PA request.

THEREFORE, it is **ORDERED**

That this 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 2nd day of October, 2014

\sJohn P. Tedesco
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 October 2, 2014.

Division of Health Care Access and Accountability