



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[Redacted]
[Redacted]
[Redacted]

DECISION

MNP/161430

PRELIMINARY RECITALS

Pursuant to a petition filed October 21, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03, to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance, a hearing was held on November 17, 2014, at Eau Claire, Wisconsin.

The issue for determination is whether the Division has taken a negative action against the petitioner that entitles him to a hearing.

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: No appearance
Division of Health Care Access and Accountability
Madison, WI

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. The petitioner (CARES # [Redacted]) is a resident of Eau Claire County.
2. The petitioner seeks to have chiropractor bills paid by Medicaid.
3. The petitioner is a 34-year-old man who has been disabled all of his life and who has received chiropractic care since he was a year old.

4. The petitioner's chiropractor has not requested authorization from the Medicaid program's representative for any of the services provided to the petitioner. Nor has it submitted a claim to the program for those services.

DISCUSSION

A person is entitled to an administrative hearing if a specific law allows the hearing or if he demonstrates, among other things, that an agency's action or inaction has injured or threatens to injure him. Wis. Stat. § 227.42(1)(a); *see also* Wis. Admin. Code, § DHA 3.03. This means that to be entitled to a hearing, he must suffer some harm because of something negative the agency did or refused to do.

The petitioner is a 34-year-old man who has been disabled all of his life and who has received chiropractic care since he was a year old. He asks that the Medicaid program pay for this care. But there is no evidence that he has requested prior authorization from the program, which is required after the "initial visit and 20 spinal manipulations per spell of illness." Wis. Admin. Code, § DHS 107.15(3)(a)1. Nor is there any evidence that he ever submitted a claim to the program seeking payment for any of the chiropractic care he has received. Because the program has not received a request either to approve or pay for services, it has never had an opportunity to take any action—or even any inaction—against the petitioner. Thus, it has never done anything negative to affect his rights, meaning whatever harm he has suffered did not occur because of its negative action or inaction. Without some negative action or inaction against him, he has no claim for the Division of Hearings and Appeals to adjudicate. Therefore, I must deny his appeal.

I note that the testimony indicates that the Medicare program denied a request for these services over a year ago. As I explained at the hearing, Medicare is a federal program that I have no jurisdiction over. Also, based on the testimony, the petitioner had 120 days to appeal that decision, a deadline that has long since passed.

CONCLUSIONS OF LAW

The Medicaid program and its agencies have not taken any negative action against the petitioner that can be appealed.

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 30th day of December, 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 December 30, 2014.

Division of Health Care Access and Accountability