



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[Redacted]
[Redacted]
[Redacted]

DECISION

MPA/159753

PRELIMINARY RECITALS

Pursuant to a petition filed August 08, 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 telephonic hearing was held on August 27, 2014, at Merrill, Wisconsin.

The petitioner's representative, Attorney [Redacted], represented [Redacted] (who also appeared and testified) at that hearing. During that hearing, petitioner's representative requested that the record be held open for documents to be submitted to the Division of Hearings and Appeals, and then for those documents to be sent to the Office of the Inspector General (OIG) for a reconsideration decision with an opportunity for a reply by petitioner's representative.

Ms. [Redacted] sent the initial August 14, 2014 denial summary (Exhibit 3), but also a brief August 25, 2014 statement regarding information sent by Attorney [Redacted] on August 21, 2014. See Exhibit 1. However, while the record was held open, Attorney [Redacted] sent a September 10, 2014 written argument with two attached Exhibits (September 2, 2014 letter by Sara Olson, APNP, and a 3 page September 8, 2014 Affidavit by [Redacted]). In her written argument, Ms. [Redacted] clarified that petitioner was requesting the purchase (not rental) of the requested CPAP and humidifier for that CPAP). In that first paragraph of that letter, Ms. [Redacted] confirmed my instructions that OIG was granted until September 24, 2014 to submit any response to petitioner's September 10, 2014 with its attached two exhibits.

It appears that Ms. [Redacted] did not receive Ms. [Redacted]'s letter. This Administrative Law Judge (ALJ) sent a November 6, 2014 letter to Ms. [Redacted] providing until November 13, 2014 for OIG to submit to DHA and petitioner its written response to petitioner's enclosed September 10, 2014 written argument and Exhibits. After reviewing petitioner's persuasive argument and Exhibits, OIG sent a November 10, 2014 Stipulation to DHA and to petitioner.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[Redacted]
[Redacted]
[Redacted]

Petitioner's Representative:

Attorney [Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]

Respondent:

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

By: [Redacted] [Redacted], RN consultant
Division of Health Care Access and Accountability
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:
Gary M. Wolkstein
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a 61 year old resident of Lincoln County who receives Medical Assistance (MA).
2. The petitioner’s provider, [Redacted], submitted a July 12, 2014 prior authorization (PA) request on behalf of the petitioner to the Office of the Inspector General (OIG) requesting approval for a Continuous Positive Airway Pressure device (CPAP) and humidifier for that CPAP machine. See Exhibit 2.
3. OIG sent a notice to the petitioner denying her PA request for the CPAP and humidifier because petitioner did not establish that her “old” CPAP was not functional or unrepairable. See Exhibit 1.
4. The record was held open for documents to be submitted to the Office of the Inspector General (OIG) for a reconsideration decision by RN consultant, [Redacted] [Redacted]. See above Preliminary Recitals.
5. After reviewing the new evidence that petitioner’s 2009 CPAP was non-functional and non-repairable, OIG RN consultant, [Redacted] sent a November 10, 2014 reconsideration statement to DHA and to the petitioner (with a copy to petitioner’s counsel, Attorney [Redacted]). In that letter, Ms. [Redacted] stipulated that based upon the new evidence submitted to OIG, the CPAP and CPAP humidifier could be approved for purchase with petitioner’s provider submitting a new PA to Ms. [Redacted] which includes the “dispensed equipment date” that petitioner already received the new CPAP and humidifier (petitioner is now covered under an HMO).

THEREFORE, it is

ORDERED

The matter is remanded to the petitioner’s provider (**Attention:** [Redacted] [Redacted] and OIG (**Attention:** RN [Redacted] [Redacted]) with the following instructions: a) **By Thursday, January 15, 2015**, petitioner’s provider should submit to OIG a new prior authorization request for the CPAP and CPAP humidifier with the “dispensed equipment date” that petitioner already received the new CPAP and humidifier along with a copy of Ms. [Redacted]’s November 10, 2014 letter; and b) **By Monday, January 26, 2015**, OIG should take the necessary administrative actions to approve the petitioner’s PA request for purchase of the CPAP and CPAP humidifier. The petitioner’s provider must then submit its claim along with a copy of this decision and the approved new prior authorization form to Forward Health for payment.

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 7th day of January, 2015

\sGary M. Wolkstein
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 January 7, 2015.

Division of Health Care Access and Accountability

Attorney Reda Redact