



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

HMO/160556

PRELIMINARY RECITALS

Pursuant to a petition filed September 10, 2014, under Wis. Stat. § 49.45(5)(a), 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 December 02, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly denied the Petitioner's request for coverage of SI joint injections.

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: Lucy Miller

Division of Health Care Access and Accountability
Madison, WI

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner has disc and spinal disease which has caused her back pain for approximately 4 years.
3. In January, 2014, Petitioner went to the emergency room for back pain. She reported to the ER physician that she sees a pain management doctor and used to receive yearly injections which kept her mostly pain free throughout the year. At that time, she reported she had not seen the

pain management doctor for approximately 2 years. The ER physician prescribed hydrocodone acetaminophen and a cane. The notes report pain with hip flexion. An x-ray reported a normal right hip, mild degenerative changes to the lumbar spine, an L3 depression, and normal pelvis.

4. On June 25, 2014, the Petitioner received sacroiliac joint injections for her back pain. There is documentation that Petitioner had 95% pain relief on June 26, 2014. A pain diary was given to the Petitioner and she was told to bring it to her next appointment. A second set of injections was ordered for August 25, 2014.
5. On August 22, 2014, the HMO received a request for coverage of bilateral sacroiliac joint injection.
6. On September 5, 2014, the HMO denied coverage of the SI injections scheduled for August 25, 2014. On September 10, 2014, the Petitioner filed an appeal with the Division of Hearings and Appeals.
7. On October 2, 2014, the Petitioner was evaluated by a physical therapist. A functional capacity evaluation reports that she is in physical therapy for low back pain and SI joint disorder. She reported that epidural injections in the past have been successful; however her most recent one was not. She reported an injection "last year" did help keep her symptoms tolerable for about 10-12 months. The evaluation indicates Petitioner has significant lumbar range of motion restrictions. Right lower extremity strength is diminished to a 3+/5 level. She noted she has an appointment for an MRI in the next month.

DISCUSSION

Medicaid, also known as Medical Assistance, MA, and Title 19, is a state and federal program that helps low income people pay their medical bills. The BadgerCare Plus Core Plan (for adults without dependent children) is a MA program that provides basic health care coverage to adults who do not otherwise qualify for Medicaid or the BadgerCare Plus Standard or Benchmark Plans. See BadgerCare+ Eligibility Handbook (BCEH), §43.1. The Handbook governing this program is available online at <http://www.emhandbooks.wisconsin.gov/bcplus/bcplus.htm>.

Persons who are on the Wisconsin Medicaid or BadgerCare Plus programs may receive their Medicaid or BadgerCare Plus benefits through an HMO. The HMOs are under contract to provide the same services as those provided to persons on straight, fee-for-service Medicaid or BadgerCare Plus, as stated in the HMO contract.

Wisconsin Medicaid reimburses only for services that are medically necessary as defined under DHS 101.03(96m), Wis. Admin. Code. Wisconsin Medicaid may deny or recoup payment if a service fails to meet Medicaid medical necessity requirements.

According to the DHS/HMO Contract for 2014, the actual provision of any service is subject to the professional judgment of the HMO providers as to the medical necessity of the service, except that the HMO must provide assessment, evaluation, and treatment services ordered by a court. Decisions to provide or not to provide or authorize medical services shall be based solely on medical necessity and appropriateness as defined in DHS 101.03(96m). Disputes between the HMO and members about medical necessity can be appealed through the HMO grievance system, and ultimately to the Department for a binding determination; the Department's determinations will be based on whether BadgerCare Plus and/or Medicaid SSI would have covered the service on a FFS basis (except for certain experimental procedures). DHS/HMO Contract for 2014, Article III §E2.

The HMO's policy with regard to repeat sacroiliac injections states that repeat injections are considered medically necessary if there has been significant relief of pain and improved function from the previous

injection. Repeat injections are to be done 2 months or more after the previous one if there has been at least 50% pain relief and improved function at 6 – 8 weeks. This policy is based on the 2013 American Society of Interventional Pain Physicians Guidelines.

In this case, the agency argues that the HMO correctly denied coverage of the second set of injections because there was no documentation that the Petitioner had at least 50% pain relief and improved function at 6 – 8 weeks. The agency argues that the physician notes indicate that she did not have sufficient pain relief.

The Petitioner testified that she had at least 50% pain relief. The Petitioner presented no documentation to support her testimony. She testified that previous injections have given her significant pain relief for up to one year.

Based on the evidence presented, I conclude that the agency correctly affirmed the HMO denial. According to medical guidelines, repeat SI injections are considered medically necessary if there is at least 50% pain relief and improved function at 6 – 8 weeks. The medical notes indicate that the injections on June 25, 2014 did not provide the required relief to allow for repeat injections. Without more documentation to demonstrate that there was at least 50% pain relief and improved function 6 – 8 weeks after the June 25 injections, I must conclude the HMO properly denied the request for repeat injections.

CONCLUSIONS OF LAW

The HMO properly denied the Petitioner's request for repeat SI injections.

THEREFORE, it is ORDERED

That 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 Milwaukee,
Wisconsin, this 23rd day of January, 2015

\sDebra Bursinger
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 23, 2015.

Division of Health Care Access and Accountability
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