



**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/163082

PRELIMINARY RECITALS

Pursuant to a petition filed January 08, 2015, 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 February 18, 2015, at Shell Lake, Wisconsin.

The issue for determination is whether the petitioner is entitled to medical assistance reimbursement for a PET scan.

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: Marcie Oakes

Division of Health Care Access and Accountability
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner is a resident of Washburn County.
2. The petitioner is diagnosed with stage IV lung cancer.

3. As of January 6, 2014, the petitioner was receiving maintenance chemotherapy for her cancer. A medical report from April 14, 2014, indicated that she had no new diagnosis and a report from August 14, 2014, indicated that her lung cancer appears to be stable.
4. The petitioner had a PET scan on April 14, 2014, a CT scan and chest X-ray on August 18, 2014, and either a CT or MRI on November 2, 2014.

DISCUSSION

The petitioner seeks a PET scan to determine the current severity of her stage IV lung cancer. 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. To ensure that CT, MRI, MRA, and PET scans are consistent with good medical practices, the Division of Health Care Access and Accountability in October 2010, under authority granted by Wis. Admin. Code, § DHS 107.02(3)(a), began requiring prior authorization before paying for them. *See MA Update, #2010-92*. The most important reasons to require prior authorization 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 imagine guidelines allow PET scans to diagnose pulmonary nodules that are identified from other advanced imaging to be at least 8mm. *Guideline ONC-9B.2*. They are also allowed for newly identified abnormalities if other imaging tests indicate that the problem is confined to the chest cavity or those tests are inconclusive. *Guideline ONC-9B.3*. They are not allowed for surveillance. *Surveillance* is defined as follows: “Diagnostic imaging in the follow-up after standard therapies, when the patient is assumed to have no known disease, stable disease or clinically insignificant disease.” *Guideline ONC-1.1*.

The petitioner contends that her cancer is spreading. If this is true, under the guidelines, that would be a reason for denying the scan rather than approving it. The evidence in her medical file does not indicate that her cancer is spreading, but it also does not include support for the requested PET scan. Her cancer has already been diagnosed, so the scan cannot be allowed for an initial diagnosis. Her medical file does not identify a new tumor, and it indicates that her condition is stable. Medical notes from April 14, 2014, indicate that there is nothing new to report. Notes from August 18, 2014, indicate that her lungs appear stable. Notes from November 2, 2014, indicated that her lungs were normal. Each of these notes was made after she received an objective test: She received a Pet scan on April 14, a CT scan with a chest X-ray on August 18, and either a CT scan or an MRI on November 2, 2014. She again visited her doctor on January 6, 2015. Notes from that visit indicated that she was receiving maintenance chemotherapy. Given these fact, the only purpose of the requested PET scan is to provide follow-up after standard therapies when the petitioner is assumed to have a stable disease. This means that it is for surveillance. Because PET scans for surveillance are not covered by medical assistance, I must uphold the agency’s denial.

CONCLUSIONS OF LAW

The Office of Inspector General correctly denied the petitioner’s request for a PET scan because it is 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 5th day of March, 2015

\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 March 5, 2015.

Division of Health Care Access and Accountability