



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
Redact

DECISION

MPA/163567

PRELIMINARY RECITALS

Pursuant to a petition filed January 27, 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 telephone hearing was held on March 04, 2015.

The issue for determination is whether the requested procedure has been shown to be medically necessary.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
Redact

Respondent:

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

By: *Redact*, MD (written appearance only)
Division of Health Care Access and Accountability
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Fond Du Lac County.
2. On January 20, 2015, Aurora Medical Group requested authorization on petitioner's behalf for a panniculectomy and excision of excess abdominal skin, PA no. *Redact*.

3. Petitioner had a gastric bypass surgery in March, 2014. His weight dropped 154 pounds. He now has excessive skin on his abdomen.
4. Petitioner's weight has been stable for two months.
5. By a letter dated January 22, 2015, the DHCAA denied the request for failing to meet ForwardHealth approval guidelines. Exhibit 2.

DISCUSSION

Surgeries for the removal of excess skin require prior authorization. Wis. Admin. Code, §DHS 107.06(2)(zf). When authorization is requested, the DHCAA reviews the request to determine whether the surgery is medically necessary. Wis. Admin. Code, §DHS 107.02(3)(e). The DHCAA's approval criteria for such surgery is that there must be skin infection, maceration beneath skin folds, some type of clinical condition such as dermatitis, or interference with potential employment. Prior Authorization Guidelines, p. 117.004.02. The provider must submit photographs with the request to verify that the medical conditions exist to the extent that would warrant approval of the surgery. *Id.*, p. 117.004.01. It is the provider's responsibility to justify the need for the service. Wis. Admin. Code, §DHS 107.02(3)(d)6.

Basically MA will cover skin excision surgery, such as a panniculectomy, if the provider documents problems with infections, rashes, or skin breakdown that do not respond well to conservative treatment such as lotions or powders. The provider documented such problems indicating a history of an irritating rash under petitioner's pannus, as well as occasional ulcerations in that area. See, Exhibit 2. Petitioner provided corroborative testimony indicating that the excess skin has resulted in trouble walking because of painful rashes and yeast infections. He has been prescribed cream and powder to address the skin problems, but those have not successfully addressed the problem. Petitioner has established the basic medical necessity of the panniculectomy.

The respondent based its rejection, however, on the additional requirement that the petitioner demonstrate stable weight for a period of six months. ForwardHealth panniculectomy approval guidelines specifically state that,

If the procedure is being performed following significant weight loss, in addition to meeting the PA criteria, there should be evidence documented in the member's medical records that the individual has maintained a stable weight for at least six months. If the weight loss is the result of bariatric surgery, panniculectomy should not be performed until at least 18 months after bariatric surgery and only when weight has been stable for at least the most recent six months.

ForwardHealth Provider Information No. 2014-01 (January 2014). Petitioner's bariatric surgery was performed on March 10, 2014, approximately 12 months ago. Petitioner testified that he has lost almost 160 pounds since then. He further stated that his weight has been stable for the past two months, and that he has reached, and maintained, his goal weight. However, the petitioner has failed to offer any evidence that would establish a basis for a determination that the 18 month (after bariatric surgery) and/or six month (stable weight post-surgery) PA approval requirements do not apply to him.

Nothing in this Decision will prevent petitioner and his provider from filing another PA request with documentation or evidence demonstrating a basis for approving a panniculectomy (1) prior to 18 months post bariatric surgery; and (2) without verification of a six-month period of stable weight maintenance. Based upon the record before me, however, I must find that the DHCAA correctly denied the request at issue in this appeal.

CONCLUSIONS OF LAW

The DHCAA correctly denied a request for a panniculectomy because petitioner's bariatric surgery occurred less than 18 months prior to the prior authorization request and because the petitioner did not demonstrate that his weight was stable for a period of six months prior to the requested procedure.

THEREFORE, it is

ORDERED

That the petition for review herein be and the same is hereby 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 12th day of March, 2015.

\sPeter McCombs
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 12, 2015.

Division of Health Care Access and Accountability