



STATE OF WISCONSIN  
Division of Hearings and Appeals

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In the Matter of:

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

HMO/163825

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**PRELIMINARY RECITALS**

Pursuant to a petition filed February 6, 2015, 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 ["DCHAA"] in regard to Medical Assistance ["MA"], a Hearing was held via telephone on April 16, 2015. With petitioner's agreement a Hearing scheduled for March 19, 2015 was rescheduled.

The issue for determination is whether it was correct for petitioner's MA Health Maintenance Organization ["HMO"] to deny petitioner's request that a CPAP and humidifier be provided to her through a provider that was not part of the HMO's network.

There appeared at that time via telephone 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: [REDACTED], RN, Managed Care Nurse  
Division of Health Care Access and Accountability  
1 West Wilson Street  
P.O. Box 309  
Madison, Wisconsin  
53701-0309

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (56 years old) is a resident of Shawano County, Wisconsin.
2. Petitioner is eligible for MA and receives her MA through an HMO.
3. Petitioner requested that a CPAP and humidifier be provided to her through a provider ( [REDACTED] ) that was not part of her HMO's network; this request was denied by her HMO.

**DISCUSSION**

The Wisconsin Department of Health Services ["DHS"] may enter into contracts for MA services with HMOs. Wis. Admin. Code § DHS 104.05(1) (December 2008); see also, Wis. Stat. § 49.45(9) (2013-14). Services available to MA recipients must be identified in the provider's contract with DHS and must be made known to all enrollees. Wis. Admin. Code § DHS 104.05(4) (December 2008). With certain exceptions, all HMOs that contract with DHS must provide to enrollees all MA services that are covered services at the time the MA HMO contract becomes effective. Wis. Admin. Code § DHS 107.28(1)(a)1.intro. (February 2014); See also, Wis. Stat. § 49.46(2) (2013-14).

HMO enrollees, such as petitioner, must obtain services paid for by MA from the HMO's providers (except for referrals or emergencies). HMO enrollees who obtain services in violation of this section shall pay for these services. Wis. Admin. Code § DHS 104.05(3) (December 2008). Therefore, it was correct for petitioner's HMO to deny petitioner's request that a CPAP and humidifier be provided to her through a provider that was not part of the HMO's network.

**CONCLUSIONS OF LAW**

For the reasons discussed above, it was correct for petitioner's HMO to deny petitioner's request that a CPAP and humidifier be provided to her through a provider that was not part of the HMO's network.

**THEREFORE, it is**

**ORDERED**

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 11th day of May, 2015

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\sSean P. Maloney  
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 May 11, 2015.

Division of Health Care Access and Accountability