



STATE OF WISCONSIN  
Division of Hearings and Appeals

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

HMO/164390

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**PRELIMINARY RECITALS**

Pursuant to a petition filed February 27, 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 in regard to Medical Assistance, a hearing was commenced in May 2015 and rescheduled but Petitioner did not appear for an August 04, 2015 telephone hearing.

There is no issue presented for determination by the Division of Hearings and Appeals at this time because of a nonappearance by Petitioner.

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:**

David D. Fleming  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is a resident of Washington County.
2. Petitioner's appeal indicates that a prior authorization for wound care was denied. It was thought that she was appealing a denial of hyperbaric chamber wound care. At the hearing she clarified the issue indicating that it was another type of wound care that was the issue – wound vac therapy

(more formally negative pressure wound therapy). The matter was adjourned to find out if that was or could be covered.

- 3. Petitioner did not appear on the second hearing date.

**DISCUSSION**

Under the discretion allowed by *Wis. Stat., §49.45(9)*, the Department of Health Services (DHS) requires MA recipients to participate in HMOs. *Wis. Admin. Code, § DHS 104.05(2)(a)*. Medicaid law and policy applies to recipients enrolled in HMOs. MA recipients enrolled in HMOs must receive medical services from the HMOs’ providers, except for referrals or emergencies. *Wis. Adm. Code, §DHS 104.05(3)*.

The criteria for approval by a managed care program contracted with the DHS are the same as the general MA criteria. *See Wis. Adm. Code, §DHS 104.05(3)*, which states that HMO enrollees shall obtain services “paid for by MA” from the HMO’s providers. The DHS must contract with the HMO concerning the specifics of the plan and coverage. *Wis. Adm. Code, §DHS 104.05(1)*. If the enrollee disagrees with any aspect of service delivery provided or arranged by the HMO, the recipient may file a grievance with the DHS or appeal to the Division of Hearings and Appeals.

The problem here is that without an appearance by Petitioner the Division of Hearings and Appeals is unable to determine the status of Petitioner’s wound vac therapy or the payment for it. The Division of Hearings and Appeals is to dismiss an appeal where Petitioner does not appear. *Wis. Admin. Code, §HA 3.05(4)(d)*.

**CONCLUSIONS OF LAW**

That the Division of Hearings and Appeals is to dismiss a case where a Petitioner does not appear.

**THEREFORE, it is ORDERED**

That this 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 13th day of August, 2015

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David D. Fleming  
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 August 13, 2015.

Division of Health Care Access and Accountability