



FH

Redact

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

In the Matter of:

Redact

DECISION

MPA/164554

PRELIMINARY RECITALS

Pursuant to a petition filed March 7, 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 [“DCHAA”] in regard to Medical Assistance [“MA”], a Hearing was held via telephone on April 21, 2015.

The issue for determination is whether petitioner is eligible for payment by the MA program for bilateral breast reduction surgery.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

Redact

Respondent:

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

BY: *F* Redact, MD, Chief Medical Officer [Dr. Redact did not appear at the April 21, 2015 Hearing, but instead submitted a letter dated April 15, 2015.]

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

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [Redacted]; 45 years old) is a resident of La Crosse County, Wisconsin.
2. Petitioner's provider, [Redacted] of La Crosse, Wisconsin, requested Prior Authorization ["PA"] (PA # [Redacted] dated February 9, 2015) for MA coverage of bilateral breast reduction surgery (both breasts) for petitioner at a cost of \$6,972.60; the estimated amount of tissue that was to be removed is 500 grams per breast.
3. DHCAA denied the PA request and sent petitioner a letter dated February 26, 2015 and entitled *BadgerCare Plus Notice of Appeal Rights* informing her of the denial.
4. Petitioner is 5 feet and 3 inches tall and weighs approximately 215 pounds; she has a Body Surface Area ["BSA"] of 2.08 square meters.

DISCUSSION

Breast reduction is a surgical procedure to remove excess tissue from breasts. Petitioner requests the reduction because she has experienced ailments including rashes, back pain, neck pain, and shoulder pain. She also states that men stare at her breasts and her husband dislikes this. She has Cerebral Palsy ["CP"], is obese, and is wheelchair bound due to a fall resulting in a T12 vertebral compression fracture.

Breast reduction surgery requires Prior Authorization ["PA"]. Wis. Admin. Code § DHS 107.06(2)(zb) (February 2014). There are several criteria that must be satisfied before PA for breast reduction surgery can be approved, including all of the following:

- (1) documentation showing that conservative treatment has been unsuccessful in alleviating clinical symptoms with a trial period of at least 3 months; and,
- (2) an appropriate amount of breast tissue must be removed from each breast. [Determined by using criteria set forth by in the *Schnur Sliding Scale Chart*. See, Schnur PL, Hoehn JG, Ilstrup DM, et al. Reduction mammoplasty: Cosmetic or reconstructive procedure? *Annals Plastic Surg.* 1991;27(3):232-237.]; and,
- (3) Documentation of at least 4 medical signs/symptoms of macromastia, such as: postural backache, upper back and neck pain, chronic breast pain due to breasts, "true hypertrophy", intertrigo (severe and intractable inflammation and/or infection in the fold beneath the breasts), shoulder grooving and kyphosis, gross asymmetry of the breasts or absence of a breast resulting from resection of the opposite breast due to cancer of infection.

Prior Authorization Guidelines Manual, 117.006.02.II.A. (02/20/03); See also, Wis. Admin. Code § DHS 107.02(3)(e)9. (February 2014).

The *Schnur Sliding Scale Chart*, based on petitioner's BSA of 2.08 square meters, dictates approximately 685 grams of tissue per breast must be removed before there is a medical rationale for the procedure. In petitioner's case, the estimated amount of tissue that is to be removed is 500 grams per breast. Therefore, DHCAA was correct to deny PA for payment by the MA program for breast reduction surgery.

CONCLUSIONS OF LAW

For the reasons discussed above, petitioner is not eligible for payment by the MA program for bilateral breast reduction surgery.

NOW, 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 May, 2015

\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 12, 2015.

Division of Health Care Access and Accountability