



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

Redact

DECISION

MPA/165136

PRELIMINARY RECITALS

Pursuant to a petition filed April 2, 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 (DHCAA or Division) in regard to Medical Assistance (MA)/BadgerCare Plus (BCP), a hearing was held on May 20, 2015, by telephone.

The issue for determination is whether the Division correctly denied a prior authorization request for an MRI scan.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

Redact

Respondent:

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

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

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # Redact) is a resident of Rock County. He is certified for MA or BCP.

2. On March 9, 2015, a prior authorization request (#...Re...) was submitted on the petitioner's behalf for an MRI scan of the lumbar spine, with and without contrast. The request was made by non-hospital provider, Dr. Redact. The Department's agent denied the request, and written notice of denial was issued to the petitioner on March 9, 2015. The petitioner timely appealed.
3. The Division requires prior authorization for CT and MRI scans performed outside of a hospital. The Division's basis for denial was that the provider did not show that the petitioner either (1) failed to improve after a 6-week trial of physician-guided clinical care, OR (2) has symptoms of significant motor weakness, recent malignancy or infection, cauda equine syndrome, or planned surgery, for which conservative treatment is not needed.
4. The petitioner, age 51, underwent lumbar spine surgery (discectomy) in 2011, followed by an MRI at that time. That MRI did not show evidence of a recurrent herniated disk. On March 6, 2015, the petitioner was seen by a doctor due to complaints of increased back pain plus shooting pain down the legs and some right foot numbness. There was also right knee pain for which the doctor recommended an x-ray. There was no reported recent injury. The March exam showed that the petitioner was tender to palpation in the lower lumbar vertebral line and bilateral paraspinal muscles. The neurological exam for muscle strength/coordination yielded 5 out of 5 strength and sensation scores for both legs.
5. In 2015, the petitioner has not completed 6 weeks of medical provider-directed non-surgical care, nor has an x-ray of the back been done. There is no documentation of the other conditions listed in Finding #3. The petitioner began doctor-ordered physical therapy for his back two weeks prior to this hearing. The doctor also ordered x-rays to be performed in early June 2015. Finally, there has been a recent referral to an orthotics department for a right ankle brace.

DISCUSSION

Physician-prescribed diagnostic services can be covered by MA, if they are consistent with good medical practice. Wis. Admin Code §§DHS 107.06(1) and 107.25. The Division has now decided to make payment of CT, MRI, and PET scans subject to prior authorization, in an effort to determine if they are being ordered consistent with good medical practice. This prior authorization requirement was announced to providers in an *MA Update*, #2010-92, issued to all providers in October, 2010.

The instant prior authorization request was denied because the Division has determined that the petitioner has neither (1) failed to improve after a 6-week trial of physician-guided clinical care, OR (2) has symptoms of significant motor weakness, recent malignancy or infection, cauda equine syndrome, or planned surgery, for which conservative treatment is not needed. Cauda equine syndrome is a compression of the nerve root bundle in the lumbosacral spine, leading to incontinence, and requiring emergency surgery. The petitioner does not deny that he has not currently met the criteria above.

To assure uniform statewide coverage treatment of MA patients, the Department has developed policy guidelines for approval of CT, PET, and MRI authorizations. *See*, policy online at <http://www.medsolutions.com/documents/guidelines/guidelines.php>. The Division cites to several policy sections, and correctly argues that the petitioner's situation met none of the cited policy sections for approval. *See*, §§ SP 1.1, SP 2.1, and SP 15.1. Those policy sections lay out the criteria referenced in the paragraph above for patients with problems in the lower spine.

Nothing has been presented in this record to suggest that the cited policy provisions are unreasonable. Accordingly, I will conclude that the request did not meet the reasonable approval guidelines, and denial was correct *at this time*. After the petitioner completes his PT and gets his x-rays, he may wish to have his physician submit another MRI request.

CONCLUSIONS OF LAW

1. The petitioner's prior authorization request for an MRI scan in March 2015 was correctly denied, per the Division's MedSolutions policy §§ SP 1.1, 2.1 and 15.1.

THEREFORE, it is

ORDERED

That the petition 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 26th day of May, 2015

\sNancy J. Gagnon
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 26, 2015.

Division of Health Care Access and Accountability