



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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/165808

PRELIMINARY RECITALS

Pursuant to a petition filed April 29, 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 hearing was held on May 20, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether Petitioner is eligible for payment by the Medicaid program for excision of abdominal skin.

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: written submission of Dr. Lora Wiggins, MD; chief medical officer for the
Division of Health Care Access and Accountability
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. A prior authorization (PA) request was filed on behalf of Petitioner on or about April 10, 2015, by [REDACTED]. The PA request sought Medicaid payment for the following

procedures: a panniculectomy, excision of excess abdominal tissue and excision of excess buttock tissue at a cost noted to be \$9800.00.

3. Petitioner had a gastric bypass surgery in January 2014. His weight dropped from 294 pounds to 220 pounds as of April 2, 2015. Overall his expected weight loss is 100-110 pounds. He now has excessive skin on his abdomen. Petitioner's weight loss history follows:
 - 5/12/14 232 lbs.
 - 8/18/14 221 lbs.
 - 11/10/14 226 lbs.
 - 1/12/15 224 lbs.
 - 4/2/15 220 lbs.
4. Petitioner started a weight loss drug in January 2015 to help with weight loss. His clinical notes indicate moderate yeast dermatitis. An orthopedic physician mentions an effect on Petitioner's range of motion because of skin at the knee level but the plastic surgery notes do not note that degree of pannus though it is below pubis base. There is an indication chronic knee pain would be helped with the surgery and that his mental health would benefit from improvement of self-image.
5. This PA request was denied and Petitioner so notified by letter dated April 15, 2015. The reasons for the denial were that the documentation did not demonstrate that approval standards were met.

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 are detailed online:

Topic 16497

Panniculectomy surgery is considered medically necessary if the panniculus hangs below the level of the pubis **and** either one of the following criteria is met:

- The medical record documents that the panniculus causes chronic intertrigo that is refractory to at least three months of appropriate medical therapy or consistently recurs over three months while receiving appropriate medical therapy.
- There is a presence of a significant functional deficit that prohibits or profoundly impairs the ability to perform activities of daily living due to a significant physical deformity or disfigurement resulting from the excess skin folds, and surgery is expected to restore or greatly improve the functional deficit. Examples of this would be deficits that prohibit a member from being able to properly shower or toilet.

... [Lipectomy surgery portions of this Topic are omitted here]

Note: 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.

Information regarding [PA criteria for bariatric surgeries](#) is available.

Panniculectomy for any other indication is not covered, including the following:

- Treatment of back, knee, or neck pain.
- In conjunction with hernia repair, unless the member meets the above-stated criteria for panniculectomy.
<https://www.forwardhealth.wi.gov/WIPortal/Online%20Handbooks/Display/tabid/152/Default.aspx?ia=1&p=1&sa=50&s=3&c=638&nt=Panniculectomy%20and%20Lipectomy%20Surgeries>

Intertrigo is a medical term for a rash. See, e.g., <http://www.webmd.com/skin-problems-and-treatments/guide/intertrigo-symptoms-causes-treatment-risk-factors>. Basically Medicaid will cover skin excision surgery if the provider documents problems with infections, rashes, or skin breakdown that do not respond well to conservative treatment such as lotions or powders or there is interference with a basic life function such as showering or toileting. Even then, however, weight must be stable for six months and a person must be 18 months post bariatric surgery.

The DHCAA denied this request because at the time of the request Petitioner was less than 18 months past the bariatric surgery and was still trying to lose weight as shown by the weight loss drug and the fact that Petitioner is three quarters of the way to the weight loss target. Further, the panniculectomy cannot be approved for knee pain or depression. Finally, the medical documentation did not demonstrate incurable rash or interference with basic life functions.

Petitioner testified that his weight at the time of hearing was about 220 pounds. He indicated that he has trouble bathing and toileting and with mobility and transfer because of knee pain. He also has lower back pain and depression. He has had a rash for about 8 months and creams do not help.

I am sustaining the Department denial of this prior authorization request. The problem with Petitioner's request is that he was not 18 months post bariatric surgery at the time of the PA request or the hearing. He is still trying to lose weight. Though he notes a rash, his primary concerns are with knee pain and the cosmetics of this. Clinical notes indicate he does meet the 'panniculus below the level of the pubis' standard but the rash is noted to be moderate and documentation does not show basic function limits.

The Division of Hearings and Appeals review here is whether the request was correctly denied by the Department at the time that it made the denial. Neither the testimony nor the documentation demonstrates that this prior authorization request met the standards detailed above. This is a case that is dependent on medical documentation from Petitioner's medical providers. They may certainly file a new PA; especially as Petitioner is now just past the 18 month mark and there may be additional clinical documentation that demonstrates that Petitioner's circumstances now meet the criteria detailed above.

*This Decision is not sent to the provider filing this PA or to any other of Petitioner's medical team.
 Petitioner may give a copy to any of his providers that he wants to have a copy.*

CONCLUSIONS OF LAW

The DHCAA correctly denied a request for a panniculectomy because, at the time of the request and denial, Petitioner was not 18 months post bariatric surgery and the documentation of skin breakdown and/or functional limitations was not sufficient to meet standards for Medicaid payment.

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 15th day of July, 2015

\sDavid 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 July 15, 2015.

Division of Health Care Access and Accountability