



FH
[REDACTED]

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

In the Matter of:

[REDACTED]
[REDACTED]
c/o [REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/172497

PRELIMINARY RECITALS

Pursuant to a petition filed March 7, 2016, 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 from Madison, Wisconsin on April 12, 2016.

The issue for determination is whether DCHAA was correct to deny Prior Authorization [“PA”] for MA payment for the drug Harvoni for petitioner.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED] (not present at April 12,
2106 Hearing)
c/o [REDACTED]
[REDACTED]
[REDACTED]

Represented by:

[REDACTED]
[REDACTED]
[“CDC”], petitioner’s Corporate Guardian
[REDACTED]
[REDACTED]

Respondent:

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

BY: [REDACTED], R., Ph., Pharmacy Practices Consultant
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]; 60 years old) is a resident of Clark County, Wisconsin.
2. Petitioner has been diagnosed with hepatitis C. Exhibit #1 & #2.
3. On February 12, 2016 petitioner's provider, [REDACTED] of [REDACTED], Wisconsin, requested PA (PA # [REDACTED] dated November 10, 2015) for MA coverage of 168 tablets (a 24 week supply; 1 tablet daily) of the drug Harvoni at a cost of \$249,516 (\$1,485.21 per tablet). Exhibit #2.
4. DCHAA denied PA # [REDACTED] for the drug Harvoni; DCHAA sent a letter to petitioner dated February 23, 2016 and entitled *BadgerCare Plus Notice of Appeal Rights* informing her of the denial. Exhibit #2.

DISCUSSION

As with any eligibility denial, the burden is on petitioner to show that she is eligible for the requested services. *Lavine v. Milne*, 424 U.S. 577, 583-584 (1976). Petitioner has failed to make such a showing.

DCHAA denied PA, in part, because it did not have complete documentation. Exhibit #2, page 7. Among other things, DCHAA points out that the required medical records necessary to confirm petitioner's CTP score were not included with the PA request. Exhibit #2, page 6. As DCHAA notes, "the only medical records included with the PA request were an abdominal ultrasound and lab results from an HCV viral load count. No other medical records were submitted." Exhibit #2, page 6. There are numerous medical records that are required to be submitted with a PA request for Harvoni. See, *ForwardHealth Update*; June 2015; No. 2015-27 (pages 11-12) [Exhibit #2, attachment]; See also, *ForwardHealth Online Handbook Topic 18297*; See also, Section II ("Clinical Information") of the *Prior Authorization Drug Attachment for Hepatitis C Agents* (form F-01247).

Services are not reimbursable under the MA program unless documentation requirements are satisfied. Wis. Admin. Code § DHS 106.02(9)(f) (January 2014). The provider is responsible to submit the complete documentation necessary to support a prior authorization request. Wis. Admin. Code § DHS 106.02(9)(e)1. (January 2014). In this case, the documentation is not complete. Therefore, the PA request was correctly denied.

It is not necessary to consider the other reasons that DCHAA denied PA in this matter.

Petitioner may have his provider file a new PA request with the required documentation.

Finally, it is noted that by a letter dated April 4, 2016 petitioner's Corporate Guardian submitted additional documentation to the Division of Hearings and Appeals ["DHA"]. See, Exhibit #1. First, that documentation does not appear to be the complete documentation required. Second, it is not sufficient to simply wait until the time of the Hearing and submit additional documentation to DHA. DHA does not possess the medical expertise to independently evaluate such documentation. Additional documentation must be submitted directly to DCHAA well in advance of the Hearing so that it may be evaluated and commented on by DCHAA. Ideally, it should be submitted to DCHAA at the same time the PA request is submitted to DCHAA.

CONCLUSIONS OF LAW

For the reasons discussed above, DCHAA was correct to deny PA for MA payment for the drug Harvoni for petitioner.

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 28th day of April, 2016

\sSean P. Maloney
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on April 28, 2016.

Division of Health Care Access and Accountability