



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

HMO/174206

PRELIMINARY RECITALS

Pursuant to a petition filed May 9, 2016, under Wis. Stat., §49.45(5)(a), to review a decision by the Division of Health Care Access and Accountability (DHCAA) in regard to Medical Assistance (MA), a hearing was held on June 22, 2016, at Madison, Wisconsin, with the parties appearing by telephone.

The issue for determination is whether petitioner's HMO correctly denied an out-of-network referral.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: [REDACTED]
Division of Health Care Access and Accountability
P.O. Box 6470
Madison, WI 53716-0470

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Rock County.
2. Petitioner is eligible for MA. His MA [REDACTED] in the Rock County area.
3. Petitioner suffered a stroke in July, 2014. He was seen at Madison's [REDACTED] Hospital by Dr. [REDACTED] on an emergency basis. Dr. [REDACTED] is not a provider in [REDACTED].

4. Petitioner subsequently saw Dr. [REDACTED] in October, 2014 and May, 2015. In the May, 2015 note Dr. [REDACTED] stated that petitioner had no further seizures or other new neurologic symptoms. Dr. [REDACTED] instructed petitioner to establish a local primary care provider.
5. In March, 2016 petitioner requested an out-of-network referral to Dr. [REDACTED]. The HMO denied the request. Petitioner then filed this appeal, and the Department's medical consultant reviewed the request. She upheld the denial.

DISCUSSION

Under the discretion allowed by Wis. Stat., §49.45(9), the Department now requires MA recipients to participate in HMOs. Wis. Admin. Code, §DHS 104.05(2)(a). MA recipients enrolled in HMOs must receive medical services from the HMOs' providers, except for referrals or emergencies. Admin. Code, §DHS 104.05(3).

A referral will be allowed only when medically necessary, that is, the HMO network is unable to handle the care of the recipient. In this case the HMO has primary care physicians as well as neurologists able to address petitioner's care needs. Petitioner's primary argument is that allowing him to see Dr. [REDACTED] would provide continuation of care. However, even Dr. [REDACTED]'s notes suggest that petitioner could be seen by a doctor within his HMO.

The new doctor can obtain Dr. [REDACTED]'s medical notes simply by requesting them. Given that petitioner's current major care needs are more about substance abuse and not neurological issues, this actually is a good time to seek out a new doctor within the HMO.

CONCLUSIONS OF LAW

Petitioner's request for an out-of-network referral was denied correctly because the HMO doctors can handle his care; it is not medically necessary that he continue to see an out-of-network doctor.

THEREFORE, it is **ORDERED**

That the petition for review 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 24th day of June, 2016

\sBrian C. Schneider
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 June 24, 2016.

Division of Health Care Access and Accountability