



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION
Case #: MPA - 174992

PRELIMINARY RECITALS

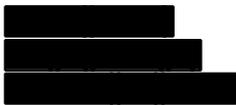
Pursuant to a petition filed on June 14, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability regarding Medical Assistance (MA), a hearing was held on July 15, 2016, by telephone.

The issue for determination is whether the petitioner is entitled to medical assistance reimbursement for an MRI of her spine.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By: [Redacted]
Division of Health Care Access and Accountability
PO Box 309
Madison, WI 53701-0309

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. The petitioner (CARES # [Redacted]) is a resident of Washburn County.
2. On June 3, 2016, the Spooner Health System submitted a request on the petitioner's behalf for an MRI of her lumbar spine with and without contrast. The department's consultant denied the

request on June 6, 2016, because her condition had not changed since a previous MRI was performed on her.

3. The petitioner is a 56-year-old woman who has had chronic lower back pain for over 20 years.
4. The petitioner had laminectomies in 1991 and late 1999 or early 2000.
5. The petitioner has had two steroid injections in her back in the last two years. She has also had physical therapy. Neither treatment has significantly reduced her pain.
6. The petitioner received an MRI of her back with and without contrast on April 30, 2015. She also received an MRI of her back on July 10, 2012.
7. The petitioner's physician told her in August 2014 that she needed a multilevel fusion, but she has also been advised that this will not eliminate all of her back pain. She has not been able to work because of pain since 2008.
8. The petitioner does not have aortic aneurysm or dissection, cancer, infection, Cauda Equina Syndrome, fracture, and motor weakness.
9. The condition of petitioner's back has not changed in the last year.

DISCUSSION

Medical assistance covers physician-prescribed diagnostic services if they are consistent with good medical practices. Wis. Admin. Code, §§ DHS 107.06(1) and 107.25. In an effort to ensure that CT, MRI, MRA, and PET scans are consistent with good medical practice, the department requires prior authorization before paying for them. *See MA Update, #2010-92.*

There are several reasons for requiring prior authorization, the most important of which when evaluating imaging requests are “to safeguard against unnecessary or inappropriate care and service; to safeguard against excess payments;...and to determine if less expensive alternative care, services or supplies are usable...” Wis. Admin. Code, § DHS 107.02(3)(b)1., 2., and 4. Like any request for a medical assistance service, the requests for scans must be medically necessary. Wis. Admin. Code, § DHS 107.02(3)(e)1. A service is medically necessary if, among other things, it is “appropriate with regard to generally accepted standards of medical practice,” “of proven medical value or usefulness,” and “cost-effective compared to an alternative medically necessary service which is reasonably accessible to the recipient.” Wis. Admin. Code, § DHS 101.03(96m)(b)3, 5, and 8.

The petitioner requested an MRI of her lumbar spine to diagnose chronic back pain she has been suffering from for over two decades. She had laminectomies in 1991 and late 1999 or early 2000. In the last two years, she two steroid injections in her back. She has had physical therapy, and she walks regularly. Nothing has led to any improvement. The department denied her request because she had an MRI of her back on April 30, 2015, and there is no evidence that her condition has changed since then. (She also had an MRI on July 10, 2012.)

The department relies upon advanced imaging guidelines issued by eViCare. Those guidelines indicate that repeat imaging studies are generally not needed unless there is evidence of a new onset or progression of a disease or there is evidence establishing that repeat imaging will affect management and treatment decisions. *Preface-3-Clinical Information.* Advanced imaging for lower back pain without neurological features requires evidence of all of the following:

- Initial clinical evaluation performed with the last 60 days
- Failure of recent (within 3 months) 6-week trial of physician-directed treatment and/or observation

- Clinical re-evaluation after treatment period (may consist of a face-to-face evaluation or other meaningful contact)

Guideline SP-5.1.

An MRI of the spine with and without contrast is appropriate more than six months after surgery if the recipient does not significantly improve within three months after a six-week trial of “physician-directed treatment and/or observation with clinical re-evaluation” or she exhibits “Red Flag Indications.” *Guideline SP-15.1.* Red flag indications are found in *Guideline SP-1.2.* They are aortic aneurysm or dissection, cancer, infection, Cauda Equina Syndrome, fracture, and motor weakness.

The diagnoses in the petitioner’s medical records do not provide any evidence that her condition has deteriorated since she had her last MRI. Her record from May 27, 2016, indicates that “she still is in a lot of discomfort and issues with her low back.” It continues: “Back examination reveals pain with attempts at range of motion in flexion, extension. And a slightly antalgic gait secondary to this as well.” Her assessment is: “Chronic lumbar disk disease and facet arthropathy.” Her record from April 30, 2015, is more specific, giving fairly precise descriptions of findings at L1-2, L2-3, L3-4, L4-5, and L5-S1.

Nor do her records provide evidence that she meets the criteria needed to receive imaging for lower back pain or when more than six months has passed since surgery. Nothing in those records indicates that she had a six-week trial of physician-directed treatment or observation in the last three months or that she exhibits any red flag indicators. She did testify that after some reluctance she would now like a spinal fusion or other back surgery her physician told her would be necessary two years ago. She contends that her doctor will not operate without a new MRI.

General MRI guidelines do allow repeat imaging if a medical provider can provide evidence how the new image will affect the petitioner’s treatment decision. But nothing in her file indicates that a new MRI is a necessary preface to the surgery. In fact, the notes in the file do not even definitely indicate that she is seeking surgery. For the MRI to be approved under these circumstances, the petitioner’s physician would have to demonstrate that she requires surgery and that relying on her 2015 MRI poses an undue risk to her. Because neither has been established at this point, I must uphold the department’s denial.

CONCLUSIONS OF LAW

The department correctly denied the petitioner’s requested MRI because she has not shown by the preponderance of the credible evidence that it is medically necessary.

THEREFORE, it is

ORDERED

The petitioner's 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, **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 August, 2016

\s _____
Michael D. O'Brien
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 August 24, 2016.

Division of Health Care Access and Accountability