



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION
Case #: MPA - 176054

PRELIMINARY RECITALS

Pursuant to a petition filed August 4, 2016, under Wis. Stat., §49.45(5), to review a decision by the Division of Health Care Access and Accountability (DHCAA) to deny Medical Assistance (MA) authorization for an MRI, a hearing was held on September 20, 2016, by telephone.

The issue for determination is whether the DHCAA correctly denied a request for MRIs.

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

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

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [Redacted]) is a resident of Oneida County who receives MA.
2. On July 25, 2016 Dr. [Redacted] requested prior authorization on petitioner's behalf for MRIs of the cervical spine and the lumber spine, PA no. [Redacted]. The request was denied by a letter dated July 27, 2016.

3. The PA request did not report a 6-week trial of physician-guided clinical care or observation prior to the MRI request.

### **DISCUSSION**

MRIs require prior authorization as required under Wis. Admin. Code, § DHS 107.02(3). The Department notified medical providers of the requirement in an MA Providers Update no. 2010-92, issued in October, 2010.

Initial imaging guidelines are found in the MedSolutions internet portal. See page 2 of the August 19, 2016 letter from Nurse Anderson. For both the cervical spine and the lumbar spine MRIs the guidelines require a failure of a 6-week trial of physician-directed treatment and/or observation. In this case it appears that Dr. Thomas requested the MRI immediately upon his first appointment with petitioner.

The denial of the request was correct because it was not done according to MA guidelines.

Petitioner should be aware that he cannot be held liable for the cost of the test. The Wisconsin Administrative Code, §DHS 104.01(12)(b) provides:

Recipients may not be held liable by certified providers for covered services and items furnished under the MA program, except for copayments or deductibles under par. (a), if the patient identifies himself or herself as an MA recipient and shows the provider the MA identification card.

§DHS 104.01(12)(c) provides:

When a service must be authorized by the department in order to be covered, the recipient may not be held liable by the certified provider unless the prior authorization was denied by the department and the recipient was informed of the recipient's personal liability before provision of the service. In that case the recipient may request a fair hearing. Negligence on the part of the certified provider in the prior authorization process shall not result in recipient liability.

Unless petitioner agreed to pay for the MRIs upon denial by the Department he cannot be charged for them.

### **CONCLUSIONS OF LAW**

The DHCAA correctly denied a request for MRIs because the request did not meet the approval criteria.

**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, **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 September, 2016

\s \_\_\_\_\_  
Brian 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 September 26, 2016.

Division of Health Care Access and Accountability