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

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In the Matter of

██████████  
████████████████████  
████████████████████

**DECISION**  
Case #: HMO - 209172

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**PRELIMINARY RECITALS**

Pursuant to a petition filed on June 27, 2023, under Wis. Stat. § 49.45(5)(a), and Wis. Admin. Code § HA 3.03, to review a decision by the iCare regarding Medical Assistance (MA), a hearing was held on July 27, 2023, by telephone.

The issue for determination is whether DHA has jurisdiction over this matter.

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: Attorney Emory Harlan  
iCare  
1555 N. Rivercenter Drive  
Suite 206  
Milwaukee, WI 53212

**ADMINISTRATIVE LAW JUDGE:**

Debra Bursinger  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # ) is a resident of Milwaukee County.

**DISCUSSION**

As a Medicaid HMO, iCare is required to provide or arrange for the provision of medically necessary and appropriate medical services for its enrollees as required under Wis. Stats. §49.46(2), and Wis. Admin. Code §DHS 107.01(1). Medicaid HMOs may develop PA guidelines that differ from fee-for-service guidelines. However, the application of such guidelines may not result in less coverage than fee-for-service.

When a member disagrees with a determination by a Medicaid HMO, the member can appeal that determination. Per Wis. Stat. §49.45(5)(ag) and the HMO and PIHP Member Grievances and Appeals Guide, a member must first appeal to the HMO before a hearing can occur with the Division of Hearings and Appeals. The Division of Hearings and Appeals does not have jurisdiction over a matter until there is a final determination by the HMO's internal grievance and appeals committee.

The Guide can be found online at <https://www.forwardhealth.wi.gov/WIPortal/content/Managed%20Care%20Organization/Contracts/Home.htm.spage>.

In this case, the Petitioner did not appeal to iCare's internal grievance committee before filing an appeal with the Division of Hearings and Appeals. According to the Petitioner's statements at the time of the hearing, she may have filed an appeal with the grievance committee since filing the DHA appeal but she does not have a final determination at this time.

Once the Petitioner receives a final determination from the iCare grievance committee, she can file a new appeal with the Division of Hearings and Appeals if she disagrees with the grievance committee's decision.

### **CONCLUSIONS OF LAW**

DHA does not have jurisdiction over this matter.

**THEREFORE, it is**

**ORDERED**

That 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, 4822 Madison Yards Way, 5<sup>th</sup> Floor North, 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.

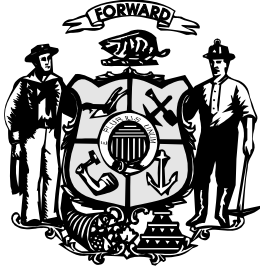
## APPEAL TO COURT

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 Milwaukee,  
Wisconsin, this 27th day of July, 2023

\s \_\_\_\_\_  
Debra Bursinger  
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 27, 2023.

iCare  
Division of Health Care Access and Accountability