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

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In the Matter of

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

**DECISION**  
Case #: MPA - 208980

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**PRELIMINARY RECITALS**

Pursuant to a petition filed on June 9, 2023, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Medicaid Services regarding Medical Assistance (MA), a hearing was held on October 4, 2023, by telephone.

The issue for determination is whether the prior authorization request # ██████████ for laser hair removal should be approved.

There appeared at that time the following persons:

**PARTIES IN INTEREST:**

**Petitioner:**

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

**Petitioner's Representative:**

Attorney Tim Hennigan  
ABC For Health, Inc.  
32 N Bassett St.  
Madison, WI 53703

**Respondent:**

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

**By:**

Division of Medicaid Services  
PO Box 309  
Madison, WI 53701-0309

**ADMINISTRATIVE LAW JUDGE:**

John P. Tedesco  
Division of Hearings and Appeals

## FINDINGS OF FACT

1. Petitioner is a resident of Rock County.
2. Petitioner is a transgender woman.
3. Petitioner's physician sought prior authorization for six sessions of laser hair removal from petitioner's face as part of gender-affirming care.
4. The department denied the request.
5. Petitioner filed a timely appeal.

## DISCUSSION

The MA program may only reimburse providers for medically necessary and appropriate health care services and equipment listed in Wis. Stat., §§49.46(2) and 49.47(6)(a), as implemented by Wis. Admin. Code, Chapter DHS 107. In December 2022 the Medicaid Program issued a policy update relating to gender-affirming health care. See *ForwardHealth Update 2022-57*. This policy statement explains:

*ForwardHealth covers gender-affirming medical and/or surgical treatments (GAMASTs) for individuals who may identify as, but are not limited to, the following:*

- *Male*
- *Female*
- *Gender diverse*
- *Nonbinary*
- *Agender*
- *Intersex*
- *Eunuch*

*Id.* at 2. The policy proceeds to explain what services may be covered services under the new policy:

*ForwardHealth will consider coverage for surgical and medical services and procedures as summarized in World Professional Association for Transgender Health (WPATH) Standards of Care for the Health of Transgender and Gender Diverse People, Version 8, except for services listed in Wis. Admin. Code § DHS 107.06(5).*

Hair removal from the face is, indeed recommended in the WPATH Standards-8:

*We recommend health care professionals offer transgender and gender diverse people referrals for hair removal from the face, body, and genital areas for gender-affirmation or as part of a preoperative preparation process.*

See *Standards of Care for the Health of Transgender and Gender Diverse People, Version 8* at URL <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9553112/>. Laser hair removal is not barred from coverage by Wis. Admin. Code § DHS 107.06(5).

The department, however, argues that hair removal under the new policy is limited **only** to pre-operative situations. That is the extent of the program denial. This ALJ contacted the program prior to hearing and the program confirmed that the denial was based solely on that basis under the new Update policy language. Hair removal is addressed twice in the Update. The specific language is:

*Covered services include, but are not limited to, the following categories: [p]rocedures designed to prepare individuals for surgery (that is, hair removal);” and,*

*Providers are advised of the following: ForwardHealth will cover permanent hair removal procedures, except as identified in Wis. Admin. Code § DHS 107.06(5) for noncovered services, as preoperative protocols for gender-affirming surgery when medically necessary.”*

*ForwardHealth Update 2022-57 at 5 & 6.*

While the policy does state that pre-operative hair removal is potentially covered, that inclusion does not mean that other hair removal is prohibited under the policy. Even the first quote above states that other situations may be covered. That is, I do not read the policy to exclude hair removal for gender-affirming purposes. If the department had intended to exclude that then I am confident the rule would have stated so explicitly. If that is the intent then the rule should be amended.

As the rule states, the requests for services must be considered on a case-by-case basis. I suspect that many, if not most, requests for hair removal will be denied. But, the record in this specific case, including the well-documented history of this petitioner’s efforts to obtain gender-affirming care, tip this case toward approval.

I note that much of petitioner’s argument referred to ALJ Schneider’s approval of hair removal in a prior case. I am not persuaded by that case and it is not controlling. Petitioner should not expect that future PA’s will be approved. It should not be expected that approval of this PA or any prior PA for this service will result in approval of future PA’s for hair removal. Furthermore, my decision in this case is not an endorsement of ongoing maintenance. Any future PA will be considered only on its own merits.

**I note to petitioner that the provider’s office will not receive a copy of this decision. To have the service approved, petitioner must provide a copy of this decision to the provider. The provider must then submit a *new* prior authorization request, along with a copy of this decision, to receive the approved coverage.**

### CONCLUSIONS OF LAW

The Petitioner established the cost effectiveness, appropriateness, and medical necessity of the requested laser hair removal services based on current Medicaid policy.

**THEREFORE, it is**

**ORDERED**

That the PA is hereby approved, and that Scott Chalet, MD and UW Health is hereby authorized to provide six visits of laser hair removal (Code 17999). The provider should submit a new prior authorization request along with a copy of this decision which is directed to be approved by the department.

## 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

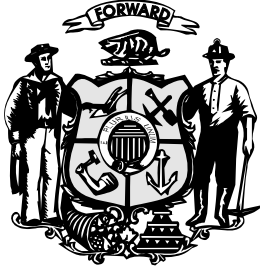
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision 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 Madison,  
Wisconsin, this 9th day of November, 2023



John P. Tedesco  
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 November 9, 2023.

Division of Medicaid Services  
Attorney Tim Hennigan  
Attorney Tim Hennigan