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STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

██████████
██████████
██████████

DECISION

Case #: MPA - 207369

PRELIMINARY RECITALS

Pursuant to a petition filed on January 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 February 23, 2023, by telephone.

The issue for determination is whether the DMS correctly denied the PA requested submitted by the Petitioner's provider.

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

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Milwaukee County.
2. On December 16, 2022, the Petitioner went to the Emergency Department with intermittent hip pain. He reported the pain started approximately one year prior and was worsening. The Petitioner was referred to an orthopedic physician for follow-up.
3. On December 20, 2022, the Petitioner had an appointment with an orthopedic physician. The physician ordered an MRI of the Petitioner's right hip.
4. On December 21, 2022, the physician submitted the PA request for an MRI of the Petitioner's hip to [REDACTED]. On December 21, 2022, [REDACTED] called the physician's office to advise that the PA request was denied. A written denial was sent to the physician's office via fax. The basis for the denial was a failure to meet the coverage guidelines which include completing six weeks of provider directed treatment without improved symptoms.
5. On December 22, 2022, the physician's office contacted [REDACTED] to provide additional information regarding the Petitioner and the PA request.
6. On December 23, 2022, an MRI of the Petitioner's right hip was done.
7. On December 24, 2022, [REDACTED] affirmed its original denial of the PA request. On December 26, 2022 and December 29, 2022, [REDACTED] made contact with the physician's office regarding the denial.
8. On January 9, 2023, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

Advanced imaging services done in an outpatient hospital setting or in a non-hospital setting require prior authorization. Wis. Adm. Code § 107.02(3); Forward Health Updates #10721. The purpose of requiring a prior authorization for these services is to reduce redundancy of tests, prevent administration of unnecessary test, ensure the medical necessity of tests, minimize member exposure to radiation, and apply national clinical guidelines for imaging services. Id.

The provider who orders the advanced imaging service (e.g., the member's primary care physician, the member's specialist) is required to work with [REDACTED] healthcare to complete and submit the PA request for the service, unless this provider has been granted an exemption from PA requirements for CT, MR, and MRE services.

In this case, the DMS affirmed [REDACTED]'s denial of the PA request for the Petitioner on the grounds that the Petitioner did not complete six weeks of provider directed treatment without improvement prior to the MRI. This is required by the [REDACTED] Musculoskeletal Imaging Guidelines Section(s): MS 24 Hip and 1.0 General Guidelines.

At the hearing, the Petitioner conceded that he did not complete six weeks of provider directed treatment prior to the MRI. The provider did not submit any evidence as part of the PA or appeal to indicate that six weeks of provider directed treatment was completed. Therefore, I conclude the DMS correctly denied the PA request.

I note further that the Petitioner testified he was not informed by the provider that a PA was required and was not informed that a PA request had been submitted and denied prior to obtaining the MRI.

ForwardHealth Topic #10722 states as follows:

Communication with Members

ForwardHealth recommends that providers inform members that PA (prior authorization) is required for certain specified services before delivery of the services. Providers should also explain that, if required to obtain PA, they will be submitting member records and information to ██████ healthcare on the member's behalf. Providers are required to keep members informed of the PA request status throughout the entire PA process.

Petitioner's provider cannot hold the Petitioner responsible for the cost of the MRI unless the provider advised him that the PA was denied and that he would be personally liable before obtaining the service. The Wisconsin Administrative Code, § DHS 104.01(12)(c) states as follows:

Prior authorization of services. 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.

Wis. Admin. Code, § DHS 104.01(12)(c).

ForwardHealth Topic #438 also addresses this issue and states as follows:

Reimbursement Not Guaranteed

Providers may not collect payment from a member for a service requiring PA under any of the following circumstances:

- The provider failed to seek PA before the service was provided.
- The service was provided before the PA grant date or after the PA expiration date.
- The provider obtained PA but failed to meet other program requirements.
- The service was provided before a decision was made, the member did not accept responsibility for the payment of the service before the service was provided, and the PA was denied.

According to the Petitioner, he was not advised that a PA was required, was not informed that a PA had been submitted, and was not informed that the PA had been denied prior to receiving the MRI. If the Petitioner's testimony is accurate, the law prohibits the provider from seeking reimbursement for the MRI from the Petitioner.

CONCLUSIONS OF LAW

1. The DMS and ██████ correctly denied the PA request.
2. The provider may not seek reimbursement from the Petitioner if it did not inform the Petitioner of the PA denial and personal liability before the MRI was conducted.

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 5th Floor, 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.

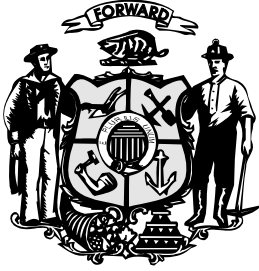
APPEAL TO COURT

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 28th day of February, 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 February 28, 2023.

Division of Medicaid Services