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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**DECISION**  
Case #: MPA - 175338

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**PRELIMINARY RECITALS**

Pursuant to a petition filed on July 5, 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 August 17, 2016, by telephone.

The issue for determination is whether the Department correctly denied the petitioner's prior authorization request for speech therapy (ST) services.

There appeared at that time the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

;

Respondent:

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

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

**ADMINISTRATIVE LAW JUDGE:**

Corinne Balter  
Division of Hearings and Appeals

### **FINDINGS OF FACT**

1. The petitioner is a resident of Ozaukee County. She is a four-year-old girl who is diagnosed with Mixed Receptive/Expressive Language Disorder and Phonological Disorder. She also has Trisomy 21 with Autism Spectrum Disorder.
2. On May 19, 2016 the petitioner's provider submitted a medical prior authorization request for speech therapy services. The request was for an evaluation and individual speech and language therapy 1 time per week beginning June 6, 2016 for 12 weeks. The PA form lists 36 weeks, however, the justification and explanation is only for 12 weeks. The total cost for 36 weeks was listed at \$9,000. The request though appears to have been intended for 12, not 36 weeks.
3. The petitioner receives speech therapy services through her public school system. The goals for the school ST and private ST are nearly identical. The goal of this private ST was to provide the petitioner ST services during the summer months when school was not in session.
4. On June 29, 2016 the Department sent the petitioner a letter stating that they denied the prior authorization request.
5. On July 5, 2016 the Division of Hearings and Appeals received the petitioner's Request for Fair Hearing.

### **DISCUSSION**

Speech and language therapy is an MA-covered service, subject to prior authorization after the first 35 treatment days. Wis. Admin. Code, §DHS 107.18(2). In reviewing a PA request the DHCAA must consider the general PA criteria found at §DHS 107.02(3) and the definition of "medical necessity" found at §DHS 101.03(96m). §DHS 101.03(96m) defines medical necessity in the following pertinent provisions:

"Medically necessary" means a medical assistance service under ch. DHS 107 that is:

- (a) Required to prevent, identify or treat a recipient's illness, injury, or disability; and
- (b) Meets the following standards:

1. Is consistent with the recipient's symptoms or with prevention, diagnosis or treatment of the recipient's illness, injury or disability; ...
3. Is appropriate with regard to generally accepted standards of medical practice; ...
6. Is not duplicative with respect to other services being provided to the recipient; ...
8. ...[I]s cost effective compared to an alternative medically necessary service which is reasonably accessible to the recipient; and
9. Is the most appropriate supply or level of service that can safely and effectively be provided to the recipient.

The code requires that a person must continue to improve for therapy to continue by meeting established and measureable goals over six months or continued ST will be denied. §DHS 107.18(3)(e). At some point the therapy program should be carried over to the home, without the need for professional intervention.

In addition, when speech therapy is requested for a school age child in addition to therapy provided by the school system, the request must substantiate the medical necessity of the additional therapy as well as the procedure for coordination of the therapies. Prior Authorization Guidelines, Physical, Occupational, and

Speech Therapy, Topics 2781 and 2784. It is up to the provider to justify the provision of the service. §DHS 107.02(3)(d)6.

Prior hearing decisions have held consistently that where speech therapy is provided in school, it would not be cost effective for MA to cover private therapy. If the private therapy covers a situation that school therapy does not address, it has been found that the services are not duplicative. See, for example, Decision no. MPA-48/16180, dated August 21, 1997, where the evidence showed that the petitioner had a unique oral deficiency that the school therapist was not trained to address. Also see no. MPA-51/41838 (11-18-99), where the school therapist was working on building vocabulary while the private therapist was working on the physical process of vocalizing sounds.

The petitioner argues that she needs ST services in the summer or she will regress. She has a severe articulation and phonological disorder. She uses a disordered pattern in her speech, and is very difficult for an unfamiliar listener to understand.

The Department highlights that the goals listed for private therapy and school therapy are nearly identical. Although the petitioner will not have ST during the summer months, the Department argues that there can be a carry-over home program during those months. At school the petitioner has help from a ST, but other school professionals are also able to help the petitioner with her speech. If the parents are given some specific skills and things to do with the petitioner during the summer months, they can continue to work with her to improve her speech.

I agree with the Department. I understand that the petitioner has a severe speech disorder. Even if there is some regression in the summer months, MA only covers the most basic and necessary medical services. There is no dispute that the petitioner receives ST through school. School ST addresses the same skills and goals as this private therapy services. As a practical matter, school therapy is starting up this week. Even though the PA was requested in May, it was not until the end of the summer until the appeal process concludes. At this point, there is no need for private ST as school ST is starting.

### **CONCLUSIONS OF LAW**

The Department correctly denied the petitioner's prior authorization request for speech therapy (ST) services.

**THEREFORE, it is**

**ORDERED**

That the petition 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 Milwaukee,  
Wisconsin, this 12th day of September, 2016

\s \_\_\_\_\_  
Corinne Balter  
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 12, 2016.

Division of Health Care Access and Accountability