



FH
[REDACTED]

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

In the Matter of

[REDACTED]

DECISION

MPA/143374

PRELIMINARY RECITALS

Pursuant to a petition filed August 24, 2012, 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 in regard to Medical Assistance, a hearing was held on October 01, 2012, at Manitowoc, Wisconsin.

The issue for determination is whether the Department erred in modifying the PA request for physical therapy services for petitioner.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

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

By: Pamela Hoffman (in writing)
Division of Health Care Access and Accountability
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Manitowoc County.
2. Petitioner had a below-the-knee amputation of his right leg. He went to North Ridge Medical and Rehab following the amputation.

3. Petitioner received physical therapy (PT) at North Ridge from February 12, 2012 until May 7, 2012.
4. North Ridge submitted a prior authorization request (PA/R) for additional PT services on May 17 for PT services to begin on June 7, 2012. The requested services were 5 sessions per week for 12 weeks (total of 60 sessions). As requested, services would run through the end of August.
5. The Department returned the PA to the provider on May 25, 2012 for clarification and additional information, including further justification as to the frequency and duration of the requested services.
6. For reasons unclear from the record and not pertinent to this appeal, petitioner's stay at North Ridge was abbreviated from initial expectations.
7. North Ridge re-submitted the PA/R on June 20, 2012 and indicated that petitioner was discharged to his home on June 1, 2012. They included a narrative letter amending the requested services to only 18 sessions from May 7 until May 31, the last day he was at North Ridge.
8. Ultimately, the Department approved modified services of 12 sessions from May 7, 2012 until June 6, 2012.
9. Petitioner filed a timely appeal of this modification.

DISCUSSION

Initially, I must make clear that the appeal filed in this case pertains only to PA request number [REDACTED] for physical therapy services. This appeal does not address any other requested services or incurred fees for petitioner. I make this clarification because the Request for Hearing form filed by petitioner includes his handwritten statement that "many services were not covered during stay at Northridge." I recognize that petitioner was receiving services at North Ridge Medical and Rehab for some period and that his stay was apparently cut short for some financial reasons. But, funding relating to his stay there is not the subject of this appeal. The requested appeal only pertains to the above PA number which was only a request for physical therapy services toward the end of petitioner's stay at North Ridge.

Physical therapy is covered by MA under Wis. Adm. Code, §DHS 107.16. Generally it is covered without need for prior authorization (PA) for 35 treatment days, per spell of illness. Wis. Admin. Code, §DHS 107.16(2)(b). After that, PA for additional treatment is necessary. If PA is requested, it is the provider's responsibility to justify the need for the service. Wis. Admin. Code, §DHS 107.02(3)(d)6.

In reviewing a PA request the DHCAA must consider the general PA criteria found at Wis. Admin. Code §DHS 107.02(3) and the definition of "medical necessity" found at Wis. Admin. Code §DHS 101.03(96m). Wis. Admin. Code §DHS 101.03(96m) defines medical necessity in the following pertinent provisions:

"Medically necessary" means a medical assistance service under Chapter 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; ...

The DHCAA interprets the code provisions to mean that a person must continue to improve for therapy to continue, specifically to increase the ability to do activities of daily living. In addition, at some point the therapy program should be carried over to the home, without the need for professional intervention.

The initial request was for 60 sessions over 16 weeks. In the letter, the provider amended the request to be for 18 sessions from May 7 until May 31, 2012. I suspect this was due to the fact that petitioner's stay at North Ridge was cut short by circumstances not pertinent to this appeal. The crux of the matter here is whether the provider justified the medical need for 18 sessions from May 7 to May 31 rather than the 12 sessions from May 7 to June 6 that the Department actually approved. I cannot find that it has. The record is insufficient for me to determine such a nuanced issue. The letter from the Department consultant does not address the modified request and only discusses why 60 sessions was not supported. The petitioner did not present testimony of the provider or any other conversant on physical therapy.

Is 5 days a week necessarily better than 3 days a week? Does the Department approval of services for a week longer than the provider requested make up for the decrease in frequency? Given that the provider has the burden of justifying the need for the services, I must find that it has not sufficiently justified the request or demonstrated the deficiencies in the approved services as modified by the Department. I believe the services were worthwhile, but not necessary. This provider has failed to justify MA coverage for this PT regimen.

CONCLUSIONS OF LAW

The Department did not err in modifying the request for PT services.

THEREFORE, it is

ORDERED

That this appeal is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found 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 appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that

Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Madison,
Wisconsin, this 15th day of October, 2012

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 October 15, 2012.

Division of Health Care Access And Accountability