



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

In the Matter of

[REDACTED]

DECISION

MPA/143383

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 23, 2012, at New Richmond, Wisconsin. A hearing scheduled for September 20, 2012, was rescheduled at the petitioner's request.

The issue for determination is whether the petitioner is entitled to medical assistance reimbursement for speech therapy.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

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

By: Patricia Willis

Division of Health Care Access and Accountability
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner is a resident of St. Croix County.

2. On July 19, 2012, the petitioner with St. Croix Therapy Inc. (formerly known as Special Children Center) requested speech therapy once or twice a week for 26 weeks at a cost of \$3,696. The Office of Inspector General asked for additional information. After St. Croix resubmitted the request, the Office of Inspector General denied it on August 16, 2012.
3. The petitioner is a six-year-old boy diagnosed with muscular incoordination and developmental delays. He was born at 27 weeks gestation and has suffered from low muscle tone and chronic lung disease.
4. The petitioner had a tracheotomy until he was almost two years old . He has had several surgeries to correct his voice problems.
5. The petitioner’s speech is understandable and he can increase it volume when reminded to do so.
6. The petitioner was given the Goldman Fristoe Test of Articulation 2 in July 2012 when he was about five years and four months old. He had a standard score of 96, which placed him in the 26th percentile and at an age equivalent of four years and 11 months. This test measures articulation by sampling spontaneous and imitative sound production.

DISCUSSION

The petitioner is a six-year-old boy who was born three months prematurely. He had a tracheotomy until he was almost two years old. His mother contends that this has caused his speech to be hoarse, breathy, and too soft. With his provider St. Croix Therapies Inc. (formerly known as. Special Children Center), he seeks authorization for speech therapy once or twice a week for 26 weeks at a cost of \$3,696. Medical assistance covers occupational therapy if the recipient obtains prior authorization after the first 35 visits. Wis. Adm. Code, § DHS 107.16(2)(b). When determining whether a service is necessary, the Division must review, among other things, the medical necessity, appropriateness, and cost of the service, the extent to which less expensive alternative services are available, and whether the service is an effective and appropriate use of available services. Wis. Adm. Code, § DHS 107.02(3)(e)1.,2.,3.,6. and 7. “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;
 2. Is provided consistent with standards of acceptable quality of care applicable to the type of service, the type of provider, and the setting in which the service is provided;
 3. Is appropriate with regard to generally accepted standards of medical practice;
 4. Is not medically contraindicated with regard to the recipient's diagnoses, the recipient's symptoms or other medically necessary services being provided to the recipient;
 5. Is of proven medical value or usefulness and, consistent with s. HFS 107.035, is not experimental in nature;
 6. Is not duplicative with respect to other services being provided to the recipient;
 7. Is not solely for the convenience of the recipient, the recipient's family, or a provider;
 8. With respect to prior authorization of a service and to other prospective coverage determinations made by the department, is 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.

It is understandable that the petitioner might have some voice problems because of his tracheotomy. He has also had several surgeries on his throat and may need more. But the fact that someone’s voice may vary from the norm does not justify medical assistance reimbursement for therapy. The person must

demonstrate a *medical* need for the treatment and show that it not only will improve his situation, but that the situation cannot be improved without it. The only standardized test performed on his voice, the Goldman Fristoe Test of Articulation 2, determined that he was only four points below the norm, which placed him in 26th percentile. His school IEP indicated that his speech was understandable, and it ended services for speech therapy this year. It appears that the petitioner's speech articulation is in the average range, which is not within the range of when a person receives treatment through medical assistance for a problem. Furthermore, given the damage he has probably suffered to his vocal cords, it is doubtful that speech therapy can alter the hoarseness of his voice. As for the softness, a speech therapist is not needed because he has shown that he can increase the volume of his speech when told to do so. Based upon this, I find that the request was properly denied because it is not medically necessary.

CONCLUSIONS OF LAW

The requested speech therapy is not medically necessary.

THEREFORE, it is ORDERED

The petitioner's 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 served and 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, 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 7th day of December, 2012

\sMichael D. O'Brien
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 December 7, 2012.

Division of Health Care Access And Accountability