



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

MPA/144976

PRELIMINARY RECITALS

Pursuant to a petition filed November 1, 2012, under Wis. Stat., §49.45(5), to review a decision by the Division of Health Care Access and Accountability (DHCAA) to deny Medical Assistance (MA) authorization for child adolescent day treatment (CADT), a hearing was held on December 12, 2012, by telephone.

The issue for determination is whether continued CADT services are appropriate.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

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

By: Written submission of Jo Ellen Crinion, RN

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a 9-year-old resident of Milwaukee County who receives MA.
2. Petitioner is diagnosed with attention deficit hyperactivity disorder (ADHD) and mood disorder. He has a history of aggressiveness and violence in school and in the home. He also has diagnoses of possible Pervasive Developmental Disorder and mental retardation of unspecified severity.
3. Petitioner received CADT services from September, 2009 through April, 2010. He then received CADT services again from August, 2011 through September 5, 2012.

4. On October 19, 2012, Howard Jansen Day Treatment requested authorization for additional CADT services for three months, PA no. [REDACTED]. By a letter dated October 22, 2012, the DHCAA denied the request because the services were proving to be ineffective.
5. The PA request shows that even after 16 months of CADT treatment petitioner continues to exhibit aggressive and violent behavior and an inability to function in even a restrictive classroom setting. His caretaker reports that past CADT services led to “very limited improvement.” See “Individual Service Plan,” page 2 of 10 under “Client Profile.” She reiterated that past CADT services were “of limited benefit” during petitioner’s psychiatric evaluation. Willowglen Academy Initial Psychiatric Evaluation, page 2.

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. Adm. Code, Chapter DHS 107. Mental health day treatment services can be covered by MA when medically necessary and appropriate. Wis. Adm. Code, §DHS 107.13(4) (May 2009). More specifically, CADT can be covered as a “HealthCheck -Other Service,” per Wis. Adm. Code, §DHS 107.22(4). Frequently, CADT and other mental health day treatment services are only covered if a prior authorization request is submitted and approved by the Division in advance of receiving the service. *Id.*, §(4)(b). With all requests it is the provider’s duty to justify the provision of the services. Wis. Adm. Code, §DHS 107.02(3)(d)6.

Day treatment services are only to be paid for patients who have an ability to benefit from the service. *Id.*, §(4)(a). The Division’s policy document, *Wisconsin Medicaid and BadgerCare Update*, No. 2006-20, requires that a CADT prior authorization include a mental status examination with a five-axis diagnosis, to assist in establishing the need for the service. In addition the prior authorization request must include a written multidisciplinary plan that specifies the services to be provided as well as coordination with other agencies involved with the child. It must include measurable goals and objectives consistent with the psychiatric assessment. The update further provides that strong justification is needed for services exceeding nine months per episode of treatment. In the instructions for completion of the CADT prior authorization request, the provider is told that continued services hinge on their effectiveness. See Attachment 1 to the DHCAA case summary dated August 25, 2010. Thus Element 10 of the CADT attachment is to present the diagnostic assessment and diagnosis. Element 11 requires a summary of the child’s medication history if the child is on psychoactive medication. Element 13 requires a description of the treatment program, and Element 15 the expected duration of the program.

In addition, the federal Department of Health and Human Services has made clear that CADT services are not to be provided to treat developmental disorders. See Attachment 1 to the November 28, 2012 case summary submitted by the Office of the Inspector General.

I must conclude that the denial of continued CADT services was correct. Given that nine months is considered to be the standard maximum length for CADT services, the lack of improvement after 16 months is telling. In addition, testimony at the hearing shows that improvement is limited even after additional services provided in late 2012 (the provider continued the services despite the denial); there is hope that petitioner might stabilize in early 2013, but it is truly nothing more than an optimistic outlook. Furthermore, it is possible that petitioner’s main problems are related to a developmental disorder that would preclude coverage of any CADT services. Although that conclusion is not certain, it might be an explanation for the relative ineffectiveness of the services.

CONCLUSIONS OF LAW

The DHCAA correctly denied CADT services because petitioner's history in such services shows them to be ineffective.

THEREFORE, it is

ORDERED

That the petition for review herein be and the same is hereby 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 19th day of December, 2012

\sBrian C. Schneider
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin \DIVISION OF HEARINGS AND APPEALS

David H. Schwarz
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on December 19, 2012.

Division of Health Care Access And Accountability