



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

In the Matter of

[REDACTED]

DECISION

MPA/145001

PRELIMINARY RECITALS

Pursuant to a petition filed November 02, 2012, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Office of the Inspector General [“OIG”] in regard to Medical Assistance [“MA”], a Hearing was held via telephone on January 28, 2013. At petitioner’s request Hearings scheduled for January 11, 2013, December 17, 2012, and November 29, 2012 were rescheduled.

The issue for determination is whether OIG was correct to deny Prior Authorization [“PA”] for MA payment for Child/Adolescent Day Treatment mental health services [“CADT”] for petitioner.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED] [REDACTED] (not present at January 28, 2013 Hearing)

[REDACTED]

Represented by:

[REDACTED] & [REDACTED] [REDACTED] (father & mother of petitioner)

[REDACTED]

Respondent:

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

By: Jo Ellen Crinion, RN, OIG Nurse Consultant (Ms. Crinion did not appear at the January 28, 2013 Hearing but submitted 2 letters; one dated November 21, 2012 (Exhibit #2A) and another dated January 10, 2013 (Exhibit #2A))

Office of the Inspector General
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

OTHER PERSON PRESENT:

Jennifer Smits, Case Manager, Impact Counseling Services, LLC

ADMINISTRATIVE LAW JUDGE:
Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (age 17 years) is a resident of Oneida County.
2. On September 19, 2012 petitioner's provider, Impact Counseling Services, LLC of Rhinelander, Wisconsin, requested PA (P.A. # 5122630270 dated September 19, 2012) for MA coverage of CADT for 4 hours per day for 5 days per week for the time period July 1, 2012 to October 1, 2012 at a total cost of \$16,000.00; petitioner's provider submitted a second PA dated October 5, 2012 for the purpose of changing the time period of requested coverage to September 19, 2012 through December 19, 2012: "Due to the inability to backdate the prior authorization at this time, we are requesting a change in dates. We are requesting that prior authorization # 5122630270 be authorized from September 19, 2012 through December 19, 2012. Exhibit #2A.
3. On October 10, 2012 OIG denied P.A. # 5122630270 for the requested CADT; OIG sent a letter to petitioner dated October 10, 2012 and entitled *BadgerCare Plus Notice of Appeal Rights* informing him of the denial. Exhibits #1 & #2A.
4. Petitioner has health insurance coverage through his father with [REDACTED] on November 27, 2012 [REDACTED] approved coverage of CADT for petitioner for the time period July 1, 2012 through December 7, 2012. Exhibit #2B.

DISCUSSION

By law, MA pays only for medically necessary and appropriate health care services when provided to currently eligible MA recipients. Wis. Admin. Code §§ DHS 107.01(1) & 107.17(1) (May 2009); See also, Wis. Stat. §§ 49.46(2) & 49.47(6)(a) (2011-12). As with any eligibility denial, the burden is on petitioner to show that he is eligible for the requested services. *Lavine v. Milne*, 424 U.S. 577, 583-584 (1976). Petitioner has failed to make such a showing.

MA is the payer of last resort for the cost of medical care. This means that if an MA member also has coverage under a private health insurance plan, that plan is to be billed first for any medical services. *Medicaid Eligibility Handbook* ["MEH"] 9.1.1. & 9.6.1.; Wis. Admin. Code §§ DHS 106.03(7)(c) & (e) (August 2010) & Wis. Admin. Code § DHS 108.02(4) (May 2010). Petitioner has coverage under a private health insurance plan for the requested CADT. Thus, OIG was correct to deny PA for MA payment for CADT for petitioner.

Petitioner's private health insurance approved coverage for CADT for time period July 1, 2012 through December 7, 2012. Petitioner's provider requested coverage from MA for the time period September 19, 2012 through December 19, 2012 -- a difference of 12 days. Further, in letter dated January 4, 2013 petitioner's provider changed the requested period of coverage to December 10, 2012 through January 18, 2013. First, such a change should be made by way of an amended PA requested filed with OIG. Second, services requiring PA are not covered if prior authorization was not obtained prior to the provision of the service (except in emergency circumstances). Wis. Admin. Code § DHS 107.03(9) (May 2019). Finally,

there is no verification that petitioner's private health insurance will not cover CADT for time period December 10, 2012 through January 18, 2013.¹

CONCLUSIONS OF LAW

For the reason detailed above, OIG was correct to deny PA for MA payment for CADT for petitioner.

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 7th day of March, 2013

\sSean P. Maloney
Administrative Law Judge
Division of Hearings and Appeals

¹ In its January 4, 2013 letter petitioner's provider states: "On this date [REDACTED] drafted a denial letter for continued services so that a claim could be made to Forward Health." This statement alone is not sufficient for verification purposes.



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on March 7, 2013.

Division of Health Care Access And Accountability