



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

MPA/145784

PRELIMINARY RECITALS

Pursuant to a petition filed December 5, 2012, under Wis. Stat., §49.45(5), to review a decision by the Division of Health Care Access and Accountability (DHCAA) to modify a Medical Assistance (MA) prior authorization request for physical therapy (PT), a hearing was held on February 1, by telephone.

The issue for determination is whether petitioner has shown a medical need for denied PT sessions.

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By: Written submission of Pamela J Hoffman, PT Consultant

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a 14-year-old resident of Calumet County who receives MA.
2. Petitioner is diagnosed with dystonia performans progressive and chorea athetoid ballismus (a disorder similar to cerebral palsy). He has received PT over the years; most recently the DHCAA approved eleven sessions in 2012. Petitioner does not receive PT in a school situation.
3. On October 3, 2012, Country Kids requested authorization for 26 weekly PT sessions over a six-month period, PA no. [REDACTED]. By a letter dated October 30, 2012, the DHCAA modified the request to 12 sessions over the six-month period on an as-needed basis.

4. In the past petitioner has had setbacks that caused him to lose skills learned in therapy. However, at this point his abilities continue to improve with therapy, and he has received a number of new pieces of equipment to utilize including ankle-foot orthotics, an SPIO suit, and gait trainer.

DISCUSSION

Physical therapy is covered by MA under Wis. Admin. 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. Adm in. Code, §DHS 107.02(3)(d)6.

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. HFS 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 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 DHCAA modified the request because it appears that petitioner's parents are able to handle his regime except when he has setbacks. However, petitioner's specialist doctor testified at the hearing that he continues to improve his functioning on his own through therapy, and his therapist agrees, especially now that he is utilizing new equipment. Based upon the testimony from petitioner's doctor and the additional information from his therapist, I conclude that the full 26 sessions should be approved.

I note to petitioner that Country Kids will not receive a copy of this decision. In order to have the services approved, petitioner must provide a copy of this decision to Country Kids. The provider must then submit a *new* prior authorization request for the additional fourteen sessions, along with a copy of this decision, to receive the approved coverage.

CONCLUSIONS OF LAW

The requested 26 sessions of PT are medically necessary.

THEREFORE, it is

ORDERED

That Country Kids is hereby authorized to perform an additional fourteen sessions of weekly PT as requested in PA no. [REDACTED]. The provider should submit a new prior authorization request for those sessions along with a copy of this decision for approval.

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 15th day of February, 2013

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



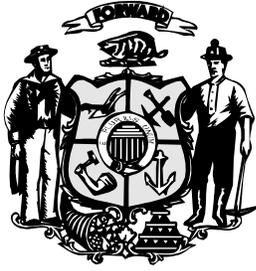
State of Wisconsin \DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on February 6, 2013.

Division of Health Care Access And Accountability



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The preceding decision was sent to the following parties on February 15, 2013.

Manitowoc County Department of Human Services
Division of Health Care Access and Accountability