



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

MPA/146396

PRELIMINARY RECITALS

Pursuant to a petition filed January 7, 2013, 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 speech therapy (ST), a hearing was held on February 4, 2013, by telephone.

The issue for determination is whether the DHCAA correctly denied ST and the ST evaluation due to petitioner receiving other ST services.

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By: Written submission of Theresa Walske, ST Consultant

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a 3-year-old resident of Clark County who receives MA.
2. Petitioner has hemiplegia resulting from a traumatic brain injury. He has received ST in the past and currently receives ST through the [REDACTED] school district.
3. On November 17, 2012, St. Joseph's Hospital Rehab requested prior authorization for an ST evaluation and for once weekly ST for 24 weeks, PA no. [REDACTED]. By a letter dated December 5, 2012, the DHCAA denied the request.

4. The DHCAA denied the request because it shows no coordination with the school district therapy and because the goals of the two therapies are similar.

DISCUSSION

Speech and language therapy is an MA-covered service, subject to prior authorization after the first 35 treatment days. Wis. Admin. Code, §DHS 107.18(2). In determining whether to approve such a therapy request, the Bureau employs the generic prior authorization criteria found at §DHS 107.02(3)(e). Those criteria include the requirements that a service be medical necessary, appropriate, and an effective use of available services. Included in the definition of “medically necessary” at §DHS 101.03(96m) are the requirements that services not be duplicative of other services, and that services be cost effective when compared to alternative services accessible to the recipient. When speech therapy is requested for a school age child in addition to therapy provided by the school system, the request must substantiate the medical necessity of the additional therapy as well as the procedure for coordination of the therapies. Prior Authorization Guidelines, Physical, Occupational, and Speech Therapy, Topics 2781 and 2784. It is up to the provider to justify the provision of the service. §DHS 107.02(3)(d)6.

Prior hearing decisions have held consistently that where speech therapy is provided in school, it would not be cost effective for MA to cover private therapy. If the private therapy covers a situation that school therapy does not address, it has been found that the services are not duplicative. See, for example, Decision no. MPA-48/16180, dated August 21, 1997, where the evidence showed that the petitioner had a unique oral deficiency that the school therapist was not trained to address. Also see no. MPA-51/41838 (11-18-99), where the school therapist was working on building vocabulary while the private therapist was working on the physical process of vocalizing sounds. It is noted that the Department does not accept the explanation that school therapy relates to school activities while private therapy relates to home activities; it has long been the Department’s position that therapy is the same no matter what the setting.

In this case the denial of the ST services (code no 92507) is upheld. There clearly was no coordination between the school and private therapists, and the goals appear to be similar as stated. Furthermore, testimony is that petitioner has experienced changes since the request was made, and there now has been contact with the school therapist. Since services have not been provided because of the denial, at this point it would be better to file a new prior authorization request that shows the changes and coordination. I am reviewing the denial based upon the circumstances at the time the request was made. Because the DHCAA has not had the opportunity to review the present circumstances, the better practice is to file a new request based on the present circumstances.

Petitioner also requests approval for the ST evaluation that was completed by St. Josephs (code no. 92506). As with all other services, MA will cover an evaluation only if there is a medical need for it. The MA Provider Handbook discusses evaluations in two topics. Number 2746 states that evaluations are not reimbursed if a screening is sufficient. Number 4571 expands the description of coverage of evaluations. Specifically with regard to this appeal, there is a note that an evaluation may be denied if it was duplicative of another service. “If a member is receiving other therapy services in another setting or from another provider, the medical need for a second provider must be supported.... [A] therapy evaluation performed for the purpose of a second opinion is not covered.”

This provision basically means that if the provider cannot support the need for the therapy services, the evaluation also will be denied. Although the consultant did not specify the DHCAA reasoning for denying the evaluation in the case summary for this appeal, I have another appeal in which an occupational therapy (OT) evaluation was the focus of the appeal, no. MPA-146715. In that case summary the consultant wrote:

[A] complete comprehensive evaluation is not always performed. A “screening” is often completed, even if an evaluation is ordered by a physician so that unnecessary services are not performed. In other words, a therapist may receive an order for an evaluation but may begin the process by reviewing the record; visiting the individual asking some questions; and/or requesting demonstration of some simple coordination or other physical movements. If based on this brief screening encounter, it was apparent that OT services would not be needed, or would offer no benefit, then the therapist documents the results of the screening and requests that the physician discontinue the order for an evaluation.

In this case the therapy services were denied because the provider did not support the need for additional therapy beyond the services being received in school. Because there was no coordination with the school therapist or explanation of how the services were different from the school services, the request was doomed from the start, and thus the evaluation also cannot be found to be necessary.

CONCLUSIONS OF LAW

The DHCAA correctly denied the prior authorization request for ST and the accompanying evaluation because the request failed to show coordination with ongoing school ST and the services appeared to have the same or similar goals as the school therapy.

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 13th 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 13, 2013.

Division of Health Care Access And Accountability