



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MPA/146715

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**PRELIMINARY RECITALS**

Pursuant to a petition filed January 17, 2013, 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, a hearing was held on February 13, 2013, at Madison, Wisconsin.

The issue for determination is whether the Office of Inspector General (OIG) correctly determined that the petitioner was not eligible for payment by the MA program for solely an October 24, 2012 occupational therapy evaluation.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Representative:

[REDACTED], mother  
[REDACTED]  
[REDACTED]

Respondent:

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

By: Mary Chucka, occupational therapy consultant  
Division of Health Care Access and Accountability  
1 West Wilson Street, Room 272  
P.O. Box 309  
Madison, WI 53707-0309

**ADMINISTRATIVE LAW JUDGE:**

Gary M. Wolkstein  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a 41 year old resident of Dane County.

2. The petitioner sustained a spinal cord injury due to a fall in July, 2012.
3. The petitioner underwent rehabilitation and occupational therapy (OT) at UW Hospital and Clinics.
4. The petitioner was transferred to Willowcrest Nursing Home following rehabilitation at UW Hospital.
5. On October 24, 2012, Froedtert Memorial Lutheran Hospital (FMLH) completed an occupational therapy (OT) evaluation of the petitioner.
6. On or about October 25, 2012, Froedtert Hospital rehab unit sent a prior authorization (PA) request solely for the October 24, 2012 occupational therapy (OT) evaluation at a requested charge of \$392.
7. The Office of the Inspector General (OIG) requested more information from the provider regarding the medical need for petitioner's OT evaluation.
8. OIG sent a January 3, 2013 notice and a February 5, 2013 summary letter to the petitioner indicating that her request for MA payment of an OT evaluation was denied for several reasons: a) when the October 24, 2012 OT evaluation was performed, the petitioner resided in a skilled nursing facility; b) the PA does not provide sufficient information to establish that the information needed could not have been obtained from a "screening" or from a "record review" of the petitioner's medical record, or from an interview by another health care professional without an OT evaluation; c) OIG did approve other PA requests for actual OT services not just another OT evaluation; d) the provider did not establish why the petitioner's medical records would not be sufficient to review to make a determination regarding the petitioner's potential benefit from rehabilitation services at FMLH; and e) OIG does not pay for an OT evaluation when a screening or record review would have been sufficient to determine whether more OT services are needed.

### DISCUSSION

An OT evaluation and any subsequent OT services are covered by MA under Wis. Adm. Code §DHS 107.17. Generally OT is covered without need for prior authorization for 35 treatment days, per spell of illness. Wis. Adm. Code §DHS 107.17(2)(b). After that, prior authorization for additional treatment is necessary. If prior authorization is requested, it is the provider's responsibility to justify the need for the service. Wis. Adm. 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. 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; ...
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 OIG denied the PA request primarily because the evaluation did not show the medical need for the OT evaluation. OIG provided multiple reasons for the denial of payment for the October 24, 2012 OT evaluation of the petitioner as set forth in Finding of Fact #8 above.

OIG consultant Mary Chucka stated in pertinent part of her February 5, 2013 summarized statement to DHA (and petitioner) the central reasons for the denial of the requested OT evaluation for petitioner:

There is no information in the submitted OT evaluation that confirms a medical need for the OT evaluation. If the member was discharged from a hospital, admitted to a skilled nursing facility and presumably received therapy services at the nursing home, at a minimum, the hospital discharge report and the OT evaluation upon admission to the nursing home would be available to FMLH for review. IF the member was reported to have been discharged from therapy then a second discharge report would also be available. The reason why these records would be insufficient to review to make a determination regarding the member's potential benefits from rehabilitation services at FMLH is not evident.

During the February 13, 2013 hearing, the petitioner's representative (her mother) was unable to provide any testimony or evidence to refute the correctness of OIG's denial of payment for petitioner's OT evaluation. Based upon the above, I conclude that the Office of Inspector General (OIG) correctly determined that the petitioner was not eligible for payment by the MA program for her October 24, 2012 occupational therapy evaluation.

#### **CONCLUSIONS OF LAW**

1. The provider failed to establish the medical need for the requested October 24, 2012 OT evaluation for the petitioner.
2. The Office of Inspector General (OIG) correctly determined that the petitioner was not eligible for payment by the MA program for her October 24, 2012 occupational therapy evaluation.

**THEREFORE, it is**

**ORDERED**

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 16th day of April, 2013

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\sGary M. Wolkstein  
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 April 16, 2013.

Division of Health Care Access And Accountability