



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
c/o [REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/148707

PRELIMINARY RECITALS

Pursuant to a petition filed April 11, 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 May 29, 2013, by telephone.

The issue for determination is whether the need for ST was shown in the request.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
c/o [REDACTED]
[REDACTED]
[REDACTED]

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 (CARES # [REDACTED]) is a 20-year-old resident of Walworth County who receives MA.
2. Petitioner has autism. He has been at [REDACTED] [REDACTED] and this spring began to transition to post-high school life. While at school he had a speech therapist that he saw once per month in the recent school year. The school has been transitioning him to employment with the expectation that he be supported by the Division of Vocational Rehabilitation (DVR).

3. On February 14, 2013 Mercy Health System requested prior authorization for an ST evaluation and then four once per week ST sessions, PA no. [REDACTED]. By a letter dated March 27, 2013 the DHCAA denied the request.
4. The Mercy request was initiated by petitioner's family. Petitioner needs to work on his voice modulation because he currently sounds like his is angry and resistant to supervision, and it is felt that his employment opportunities could be hurt by misunderstanding of his vocal cues.

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.

The key to this request is the idea that MA will pay for medically necessary services. The requested services are not for petitioner's medical improvement; they are to assist him to perform better in a work environment. Thus it appears that the avenue for services for petitioner should be with DVR since DVR is already enlisted to support his transition from work to school. Furthermore, there was no coordination between the school and private therapist as required by Department policy.

This result does not mean that petitioner should not receive ST services to help with his voice modulation. However, such services are not medically necessary. They are better described as vocationally desirable or necessary, and thus should be within the purview of vocational support.

CONCLUSIONS OF LAW

The requested ST services were denied correctly because they are not medically necessary and were not coordinated with petitioner's ongoing 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 3rd day of June, 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 June 3, 2013.

Division of Health Care Access And Accountability