



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

██████████ ██████████ ██████████
c/o ██████████ ██████████ and ██████████ ██████████
██████████
██████████

DECISION

MPA/149890

PRELIMINARY RECITALS

Pursuant to a petition filed June 07, 2013, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance, a hearing was held on September 09, 2013, at Green Bay, Wisconsin.

The issue for determination is whether the Department erred in its denial of the PA request for physical therapy (PT).

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

██████████ ██████████ ██████████
c/o ██████████ ██████████ and ██████████ ██████████
██████████
██████████

Respondent:

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

By: Pam Hoffman (in writing)
Division of Health Care Access and Accountability
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Brown County.
2. Petitioner has Down syndrome. She receives in-school PT services.

3. The provider, [REDACTED] (CP) file a prior authorization request (PA # [REDACTED]) on April 19, 2013. The PA sought physical therapy services at one visit per week for 16 weeks in an amount totaling \$3,563.12. The request indicates a need for assistance with toilet training and walking safely and going up and down stairs.
4. The Department sought additional information and justification from the provider. The provider resubmitted the PA request on May 7, 2013.
5. The PA was denied on May 14, 2013.

DISCUSSION

Physical therapy (PT) is an MA-covered service, subject to prior authorization after the first 35 treatment days per spell of illness. Wis. Admin. Code §DHS 107.16(1)(a), (2)(a). In determining whether to approve PT services, the Division must consider the generic prior authorization review criteria listed at Wis. Admin. Code §DHS 107.02(3)(e). Those criteria include the requirement that the requested service be medically necessary, that there are not less expensive alternative services available, and that other available services are being effectively and appropriately used. *Id.*, (e)1,6,7. The petitioner's diagnosis is one for which PT services may be suitable.

The Division argues that the provider has not established that PT is medically necessary for the petitioner at the level of once per week. The Division agrees that a home exercise program (HEP) is desirable for this child. The Department argued that the school therapist is capable of devising such a program. The Department also argues that toilet training is not a proper service for PT covered by medical assistance.

At the time of the hearing, the petitioner and provider offered no meaningful testimony to support a finding of medical necessity. Petitioner's father conceded that "maybe" the services are not medically necessary. The provider similarly referred only to petitioner's difficulties and how the petitioner is not able to keep up with her peers due to lags in gross motor skills. It may be that such services would be beneficial for the child. But that does not mean that a state medical assistance program should fund the therapy.

CONCLUSIONS OF LAW

The Department did not err in denying the PA request.

THEREFORE, it is

ORDERED

That this appeal is 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 15th day of October, 2013

\sJohn P. Tedesco
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Wayne J. Wiedenhoef, Acting Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

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

Division of Health Care Access And Accountability