



STATE OF WISCONSIN  
Division of Hearings and Appeals

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In the Matter of

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

DECISION

MPA/149986

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**PRELIMINARY RECITALS**

Pursuant to a petition filed June 12, 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 July 31, 2013, by telephone.

The issue for determination is whether the requested services were shown to be medically necessary.

**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 is an 8-year-old resident of Wood County who receives MA.
2. Petitioner has cerebral palsy and spastic quadriplegia. His only communication is with a device in school. He is able to eat soft table foods and drink thin liquids.
3. Petitioner receives ST in school. The ST focuses on both communication and eating.
4. On April 26, 2013, Therapies Plus, LLC requested prior authorization for ST during the summer months, PA no. 5131160177. By a letter dated May 28, 2013, the DHCAA denied the request.

5. The PA request included no test results or therapist's observations on petitioner's ability to communicate or to swallow. Petitioner's abilities to swallow and to communicate are virtually the same now as when a previous ST request was made in 2010.

### 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 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.

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. If PA is requested, it is the provider's responsibility to justify the need for the service. Wis. Admin. Code, §DHS 107.02(3)(d)6.

The PA request in this case does not provide sufficient information for the DHCAA to determine if it meets the medical necessity requirement. It includes no objective data on petitioner's capabilities. It left the DHCAA to search out old data from 2010 that showed the current goals to be almost entirely the same as three years ago. Furthermore there is no evidence of coordination with the school therapy or even a suggestion that the school therapist believes summer ST is necessary to maintain petitioner's status. I must conclude, therefore, that the denial was correct.

### CONCLUSIONS OF LAW

The requested ST services were denied correctly because the provider did not show a need for the services or that petitioner would improve or even maintain his status with the services.

**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 5th day of August, 2013

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\sBrian C. Schneider  
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](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on August 5, 2013.

Division of Health Care Access And Accountability