



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

In the Matter of

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

DECISION

MPA/150012

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, a hearing was held on July 31, 2013, by telephone.

The issue for determination is whether the provider showed evidence of improvement.

PARTIES IN INTEREST:

Petitioner:

[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 4-year-old resident of Wood County who receives MA.
2. On April 13, 2013, [REDACTED], LLC requested prior authorization for twice weekly speech therapy for petitioner to begin March 25, 2013, PA no. 5130970007. By a letter dated May 1, 2013, the DHCAA denied the request.
3. The request showed that petitioner had been receiving ST at [REDACTED] since June, 2102. He also received ST through the school district. The PA request included only a November, 2012 re-evaluation report with no baselines dating back to June, 2012 and no report/evaluation showing petitioner’s status as of March, 2013. The DHCAA requested additional documentation that

██████████ submitted on April 17, 2013. The new documentation was a list of goals drafted in April, 2013, but the DHCAA was unable to determine if the goals showed any improvement because they appeared to be essentially the same goals dating back to June, 2012.

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. 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.

In this case I agree that the prior authorization request failed to show how the ST was helping petitioner improve. Petitioner’s mother testified that he has improved, but the problem is that the provider failed to show that improvement. Furthermore the provider failed to show any difference from the school therapy. Petitioner’s mother testified that the private therapy is better because it is one-on-one rather than in a group as in school, but the PA documentation says nothing more than that. It notes that the private therapy is one-on-one but does not explain what the private therapy is doing differently other than that.

CONCLUSIONS OF LAW

The DHCAA correctly denied the request for ST because the PA request failed to show how petitioner had improved after almost one year in 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 5th day of August, 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 August 5, 2013.

Division of Health Care Access And Accountability