



STATE OF WISCONSIN  
Division of Hearings and Appeals

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In the Matter of

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

DECISION

MPA/150466

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**PRELIMINARY RECITALS**

Pursuant to a petition filed July 3, 2013, under Wis. Stat., §49.45(5), to review a decision by the Office of the Inspector General (OIG) to deny Medical Assistance (MA) authorization for occupational therapy (OT), a hearing was held on August 22, 2013, by telephone.

The issue for determination is whether the provider showed the need for summer OT services.

**PARTIES IN INTEREST:**

Petitioner:

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

Respondent:

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

By: Written submission of Mary Chucka, OT Consultant

**ADMINISTRATIVE LAW JUDGE:**

Brian C. Schneider  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is a 5-year-old resident of Crawford County who receives MA.
2. Petitioner is diagnosed with autism and developmental delay. She received OT services during the school year.
3. On May 15, 2013, ██████████ ██████████ requested authorization for twice weekly OT for eleven weeks during the summer, PA no. ██████████. By a letter dated July 11, 2013, the Office of the Inspector General (OIG) denied the request.
4. The OIG questioned whether there was a need for professional OT services. The PA request did not include specific impairments that would limit petitioner's abilities, and thus it could not be

determined whether OT would be effective. Also baselines were not included to determine if the services were effective. In addition there was no suggestion from the school therapist that summer OT was necessary.

### **DISCUSSION**

OT is covered by MA under Wis. Admin. Code, §DHS 107.17. Generally OT is covered without need for prior authorization for 35 treatment days, per spell of illness. Wis. Admin. 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. Admin. Code, §DHS 107.02(3)(d)6. If the person receives therapy in school or from another private therapist, there must be documentation of why the additional therapy is needed and coordination between the therapists. Prior Authorization Guidelines, Physical, Occupational, and Speech Therapy, Topics 2781 and 2784.

In reviewing a PA request the OIG 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 request primarily because the evaluation did not show the medical need for the services. The consultant noted that although the evaluation showed problems to be worked on, it did not identify why petitioner was unable to accomplish the tasks.

It is the provider's duty to show improvement in specific, measurable ways. Otherwise it is difficult to tell if the improvement is due to the therapy or simply natural maturation. Furthermore, there is no suggestion from the school therapist that summer OT is needed. I will affirm the OIG's denial because I am unable to determine the objective need for the therapy and what results can be deemed to be successful.

### **CONCLUSIONS OF LAW**

The provider failed to show the medical necessity for summer OT 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 30th 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**

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The preceding decision was sent to the following parties on August 30, 2013.

Division of Health Care Access And Accountability