



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

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In the Matter of

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

DECISION

MPA/150801

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**PRELIMINARY RECITALS**

Pursuant to a petition filed July 18, 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 August 20, 2013, at Chippewa Falls, Wisconsin.

The issue for determination is whether the petitioner is entitled to medical assistance reimbursement for physical therapy.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

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

Respondent:

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

By: Pamela Hoffman

Division of Health Care Access and Accountability  
1 West Wilson Street, Room 272  
P.O. Box 309  
Madison, WI 53707-0309

**ADMINISTRATIVE LAW JUDGE:**

Michael D. O'Brien  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. The petitioner is a resident of Chippewa County.

2. On May 13, 2013, the petitioner with [REDACTED] [REDACTED] requested 12 weekly physical therapy sessions throughout the summer of 2013. The Office of Inspector General denied the request on June 26, 2013.
3. The petitioner has not received any of the requested sessions.
4. The petitioner receives physical therapy at school during the regular school year and does not seek any private therapy then.

### DISCUSSION

The petitioner, with [REDACTED] [REDACTED] (a.k.a. S.P.O.T.S. House), requested 12 weekly physical therapy sessions throughout the summer of 2013. Medical assistance covers physical therapy if the recipient obtains prior authorization after the first 35 visits. Wis. Admin. Code § HFS 107.16(2)(b). She does not seek any therapy during the summer months because she receives two half-hour sessions per week from her school district. The Office of Inspector General denied her request. She did not receive any therapy while waiting for the Office to act. By the time this matter came before me, the summer was almost over. Because she did not receive any therapy that now needs to be paid for and no longer seeks future therapy, there is nothing I can do that will change the outcome. Therefore, this matter is moot, and I must dismiss it.

That said, I understand the petitioner and her provider's frustration with the process. Her provider submitted the request on May 13, 2013. The Office of Inspector General asked for more information on May 21, which the provider submitted on May 28, 2013. The Office requested more information, and the provider submitted it on June 18, 2013. Although the therapist had twice provided information at the Office's request, the Office's reviewer denied the request in part because she assumed that the petitioner had a home program designed by the school's therapist. The petitioner's therapist correctly points out that if this was a concern the Office should have asked about it one of the two times it asked for additional information. While I understand the petitioner and her provider's concern, I have no authority to issue opinions that only offer advice and do not affect the outcome of the matter. Therefore, I must uphold the denial.

I suggest that if the petitioner desires therapy next summer that she submit the request earlier. If she believes that the agency is unduly delaying making a decision, she can file an appeal before receiving its final decision.

### CONCLUSIONS OF LAW

There is no determination to make because the request is moot.

**THEREFORE, it is**

**ORDERED**

The petitioner's 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 1st day of October, 2013

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\sMichael D. O'Brien  
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 October 1, 2013.

Division of Health Care Access And Accountability