



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

In the Matter of

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c/o ██████████ ██████████
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DECISION

MPA/151323

PRELIMINARY RECITALS

Pursuant to a petition filed August 13, 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 30, 2013, at Wisconsin Rapids, Wisconsin.

The issue for determination is whether the Department erred in denying the PA # ██████████.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

██████████ ██████████
c/o ██████████ ██████████
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Respondent:

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

By: Jo Ellen Crinion, RN (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 Wood County.
2. Petitioner is a twelve year old male.
3. Petitioner has diagnoses including anxiety disorder NOS, ADHD, and oppositional defiant disorder.

4. Petitioner has a history of defiant behaviors including truancy, use of inappropriate language, throwing pens, throwing other objects in anger or frustration, punching holes in walls at home, other manifestations of anxiety.
5. Petitioner has been disciplined at his school this school year. He has thrown at least one pen this school year.
6. Petitioner has not exhibited violence toward others or suicidal tendencies or attempts.
7. The provider, [REDACTED], submitted a PA request on June 27, 2013 for child/adolescent day treatment at a cost of \$26,000.
8. The PA was denied on July 1, 2013.

DISCUSSION

The MA program may only reimburse providers for medically necessary and appropriate health care services and equipment listed in Wis. Stat., §§49.46(2) and 49.47(6)(a), as implemented by Wis. Admin. Code, Chapter DHS 107. Mental health day treatment services can be covered by MA when medically necessary and appropriate. Wis. Admin. Code, §§ DHS 107.02(3)(e), 107.13(4), *see also* WI Medicaid and BC Update No. 2006-20 (March 2006). Specifically, the Code requires that “[d]ay treatment services are covered only for the chronically mentally ill and acutely mentally ill who have a need for day treatment.” Wis. Admin. Code § DHS 107.13(4)(a)6. As with all prior authorizations under medical assistance, specific factors are necessarily a part of the decision to approve or deny by the Department:

Departmental review criteria. In determining whether to approve or disapprove a request for prior authorization, the department shall consider:

1. *The medical necessity of the service;*
2. *The appropriateness of the service;*
3. *The cost of the service;*
4. *The frequency of furnishing the service;*
5. *The quality and timeliness of the service;*
6. *The extent to which less expensive alternative services are available;*
7. *The effective and appropriate use of available services;*
8. *The misutilization practices of providers and recipients;*
9. *The limitations imposed by pertinent federal or state statutes, rules, regulations or interpretations, including medicare, or private insurance guidelines;*
10. *The need to ensure that there is closer professional scrutiny for care which is of unacceptable quality;*
11. *The flagrant or continuing disregard of established state and federal policies, standards, fees or procedures; and*
12. *The professional acceptability of unproven or experimental care, as determined by consultants to the department.*

Wis. Admin Code § DHS 107.02(3)(e).

This was not a close case based on the record here. The DHCAA denied this request, in part, because the provider did not establish why this particular treatment was medically necessary. Even after hearing, at which time this ALJ specifically queried the provider and witnesses on why CADT was medically necessary, and why other options such as outpatient therapy two or three times per week were not appropriate, the provider was unable to persuade me. Certainly the documentation alone submitted to the Department was not sufficient to meet the burden of showing why \$26,000 was a cost-effective and necessary expense. It is clear that this 12 year old boy has some behavioral issues. He has a record of truancy, throwing objects inappropriately, and he recently punched a hole in a wall in his home. But, I am not convinced that such behavior calls for such intensive and costly treatment. The provider was somewhat convincing that the petitioner could *benefit* from

treatment. But, showing that the treatment could be beneficial is not sufficient. It must be shown to be medically necessary and cost-effective. There has been no such showing on this record.

CONCLUSIONS OF LAW

The Department did not err in denying the PA # [REDACTED].

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 22nd day of October, 2013

\sJohn P. Tedesco
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 22, 2013.

Division of Health Care Access And Accountability