



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

---

In the Matter of

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

DECISION

MPA/151826

---

**PRELIMINARY RECITALS**

Pursuant to a petition filed September 3, 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 physical therapy (PT), a hearing was held on October 30, 2013, by telephone.

The issue for determination is whether the provider justified the provision of summer PT.

**PARTIES IN INTEREST:**

Petitioner:

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

Respondent:

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

By: Written submission of Pamela J. Hoffman, PT Consultant

**ADMINISTRATIVE LAW JUDGE:**

Brian C. Schneider  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is a 7-year-old resident of Brown County who receives MA.
2. Petitioner was born prematurely with motor delays and musculoskeletal weakness. He has difficulty with balance, strength, and flexibility. He received PT services during the 2012-2103 school year.
3. On June 26, 2013, Bellin Sports Medicine requested authorization for 16 twice weekly PT sessions during the summer months, PA no. ██████████. After the DHCAA requested information on why summer PT was necessary, the DHCAA denied the request by a letter dated July 22, 2013.

4. Petitioner has been receiving PT since he was 6 months old. In recent testing he was “below” the 38th percentile in bilateral coordination and also relatively low for balance. The PA request notes that the reason for the requested summer services is that there are no school services during the summer (in fact petitioner is not receiving PT in school in the current school year). In a note in the spring, 2013, it was noted that petitioner could walk the length of a balance beam independently, hop on his right foot up to four times and on his left foot once, skip by alternating hops, and walk down stairs alternating his feet while holding the railing. He was able to catch a medium size ball 7 out of 10 tries and a small ball 6 out of 10 tries.
5. There was no evidence in the PA request of coordination with the school therapist or a suggestion that the school therapist agreed that summer PT was necessary.

### DISCUSSION

Physical therapy is covered by MA under Wis. Admin. Code, §DHS 107.16. Generally it is covered without need for prior authorization (PA) for 35 treatment days, per spell of illness. Wis. Admin. Code, §DHS 107.16(2)(b). After that, PA for additional treatment is necessary. 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. 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 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. 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 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. Finally the MA program will not pay for therapy if the person already receives therapy from a different provider, with one exception being when the private therapist is working on an area of functioning that the other therapist is unable to work with; for example, if the school speech therapist is working on language skills, MA might cover private eating/swallowing speech therapy.

In this case it appears that the sole reason for requesting PT during the summer is that petitioner always has received PT and it is assumed it will continue. As noted in the Department’s case summary, it is difficult to determine exactly what impairment is being treated. It is evident that petitioner is in the lower

half of functioning compared to other children his age, but he also is higher than a significant portion of children. Striking to me was his ball catching skills; a seven year old catching a small ball 6 out of 10 times does not seem highly unusual.

I agree with the DHCAA that the medical need for PT for petitioner during the summer months has not been shown. There was no suggestion from petitioner's school therapist that summer PT was necessary. Certainly PT would be beneficial, but I cannot find that it is necessary. I do not see how petitioner's deficits require the input of a medical professional as opposed to a parent working with him to increase his coordination and balance.

### **CONCLUSIONS OF LAW**

The DHCAA correctly denied the request for summer PT because it was not shown why the therapy was medically necessary.

**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 November, 2013

---

\sBrian C. Schneider  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin \DIVISION OF HEARINGS AND APPEALS**

Brian Hayes, 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 November 5, 2013.

Division of Health Care Access And Accountability