



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of:

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

DECISION

MPA/154341

PRELIMINARY RECITALS

Pursuant to a petition filed on December 19, 2013, under Wis. Stat. § 49.45(5) (2011-12), to review a decision by the Office of the Inspector General ["OIG"] in regard to Prior Authorization ["PA"] under the Medical Assistance ["MA"] program for Occupational Therapy ["OT"], a Hearing was held via telephone on February 11, 2014.

The issue for determination is whether OIG was correct to deny PA for MA payment for OT for petitioner.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED] (not present at February 11, 2014 Hearing)
c/o [REDACTED] & [REDACTED]
[REDACTED]
[REDACTED]

Represented by:

[REDACTED] & [REDACTED], petitioner's parents
[REDACTED]
[REDACTED]

Wisconsin Department of Health Services
1 West Wilson Street
Room 650
P.O. Box 7850
Madison, Wisconsin 53707-7850

BY: Mary Chucka, OTR [Ms. Chucka did not appear at the February 11, 2014 Hearing, but submitted a letter dated January 14, 2014 with attachments.]

Office of the Inspector General
1 West Wilson Street
Room 250
P.O. Box 309
Madison, Wisconsin 53701-0309

OTHER PERSON PRESENT:

██████████, petitioner's OT Therapist, ██████████ LLC

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (age 13 years) is a resident of Wisconsin and is certified for MA.
2. On October 15, 2013 petitioner's provider, ██████████ LLC of Wisconsin Rapids, Wisconsin, requested PA (P.A. # ██████████ dated October 15, 2013) for MA coverage of OT for petitioner at the rate of 1 time per week for 26 weeks for 60 minutes each time with a requested start date of November 5, 2013 at a total cost of \$2,970.00.
3. On November 22, 2013 OIG denied P.A. # ██████████; OIG sent a letter to petitioner dated November 22, 2013 and entitled *BadgerCare Plus Notice of Appeal Rights* informing her of the denial.
4. As submitted to OIG the requested OT services had 7 short term goals as identified by the OT provider in a October 9, 2013 *Occupational Therapy Goal Update*; the 7 goals have "Baseline" descriptions as follows:
 - "Sorts clothes into appropriate bins of drawers with max-mode cues.";
 - "requires moderate assistance and verbal cues to brush hair.";
 - "Assistance and verbal cues needed to complete hygiene tasks. Completes independently, 0/3 attempts."
 - "Maximal assistance to follow through with multi-step tasks. Completes with verbal cues only, 0/3 attempts.";
 - "No sensory diet established, [petitioner] has shown new difficulties with sensory processing (i.e. loud noises, easily frustrated).";
 - "Difficulty with loud noises, hard to concentrate. Tolerate community activities 1/3 attempts."; and,
 - "Maximal assistance for organization, completes with verbal cues only 0/3 attempts."
5. The documentation in the record of this matter does not establish a quantifiable baseline with respect to all of the 7 goals identified by the provider in the October 9, 2013 *Occupational Therapy Goal Update*.

DISCUSSION

Reasons for limited performance must be identified, targeted, and objectively measured so that a baseline of abilities and limitations can be established at the initiation of treatment to which results of treatment can later be compared. Baselines enable progress toward a goal to be measured. If no starting point is

known, it is not possible to know how far a person has progressed (or regressed). Further, baselines are necessary to determine if the stated goals of the requested therapy are necessary and realistic. If the baseline for a goal is high the goal may not be necessary, if it is low the goal may not be realistic. OIG denied PA in this case, in part, because all necessary baselines had not been established.¹

Baselines must use units of objective measurement that can be consistently applied when reporting subsequent status (for example: Range of Motion [“ROM”] should be measured in degrees). Baselines must be specific, measureable, and objective. Words such as better, improved, calmer, happier, pleasant, less/more, not as good, not as reliable, longer, more prolonged, and goal not met are not specific, measureable, and objective. *ForwardHealth: Prior Authorization / Therapy Attachment (PA/TA) Completion Instructions*, [F-11008A (07/12)], pp. 4-5.

In this case not all goals identified by the provider have the required baselines. For instance, the first goal is that petitioner “will demonstrate improved visual attention, visual perceptual skills, and self-care independence, as evidenced by her ability to sort a basket of clothing into appropriate bins/drawers, with no verbal cues, 2/3 attempts.” The baseline for this goal is: “Sorts clothes into appropriate bins of drawers with max-mode cues.” This baseline cannot be consistently applied when reporting subsequent status because it is not specific, measureable, and objective. There is a similar lack of specific, quantifiable information with respect to other goals.

Petitioner’s provider refers to the June 26, 2013 *Occupational Therapy Re-Evaluation*. That document contains the result of various tests [*Pediatric Evaluation of Disability (PEDI)*; *Sensory Profile*; and, *Clinical Observations of Motor and Postural Skills, 2nd Edition (COMPS-2)*] -- but does not contain the required specific, measureable, and objective baselines.

Services are not reimbursable under the MA program unless documentation requirements are satisfied. Wis. Admin. Code § DHS 106.02(9)(f) (August 2010). The provider is responsible to submit the complete documentation necessary to support a prior authorization request. Wis. Admin. Code § DHS 106.02(9)(e)1. (August 2010). In this case, the documentation is not complete because it does not establish a quantifiable baseline with respect to all of the goals identified by the provider.

It is not necessary to consider the other reasons that OIG denied PA in this matter.

CONCLUSIONS OF LAW

OIG was correct to deny PA for payment by the MA program for OT because the documentation submitted in support of the PA request is not complete in that it does not establish a quantifiable baseline with respect to all of the goals identified by the provider.

NOW, THEREFORE, it is

¹ In a prior *Decision* concerning petitioner the issue was whether OT services could be continued in light of petitioner’s alleged lack of progress. The baselines in that matter were sufficiently quantified that a determination could be made that petitioner had made progress. DHA Case No. MPA/143535 (Wis. Div. Hearings & Appeals November 2, 2012) (DHS). In the present matter the issue is whether all the baselines are specific, measureable, and objective.

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, Room 651, 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 28th day of February, 2014

\sSean P. Maloney
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 February 28, 2014.

Division of Health Care Access and Accountability