

2. On November 8, 2013, a prior authorization request was submitted on the petitioner's behalf for PT services. Services were requested from November 5 through December 2, 2013, at the level of 5 times weekly, and at a cost of \$2,328. On December 2, 2013, the Division issued notice advising that it would approve PT during that timeframe, but at the level of 3 times weekly.
3. The Division's basis for approving a smaller number of sessions was that the submitted documentation did not support the amount of PT sessions requested, given the petitioner's abilities as of November 5, 2013.
4. The petitioner, age 62, resided in the community prior to August 23, 2013. He was hospitalized from August 23 through September 9, 2013, due to a staph infection. He lost strength due to being bedridden. Upon hospital discharge, he was admitted to ██████ Health and Rehabilitation Center (██████ Health), where he received services that included PT, from September onward. As of November 5, 2013, his abilities included walking in a walker for 125 feet, transferring out of bed independently but with a need for extra time, transferring with stand by assistance, and a slow TUG (timed up and go test) of 20.9 seconds. He continued to receive PT services in November, although not 5 times weekly (per his testimony).
5. The goals of the requested therapy were independent transfers, ambulation on multiple surfaces in the community, increased standing balance, negotiation of 20 stair steps up and down, and increased lower extremity strength.
6. The petitioner returned to his residence during the last week in November 2013. He found navigating the 10 stair steps to his residence to be quite challenging initially, but asserts that he can traverse them adequately now. He does not have a current need for PT services.

DISCUSSION

Physical therapy (PT), as defined at Wis. Admin. Code §DHS 107.16(1), is an MA-covered service, subject to prior authorization after the first 35 treatment days. Wis. Admin. Code §DHS 107.16(2). In determining whether to approve such a therapy request, the Division employs the generic prior authorization criteria found at §DHS 107.02(3)(e). Those criteria include the requirements that a service be a medical necessity, appropriate, and an effective use of available services. *Id.* The Division argues that the authorization criteria have not been satisfied for the reason given in Finding #3 above.

The Division agreed that the petitioner needed additional PT in November to get strong enough to go home. The Division did not believe, given the petitioner's improved status in early November, that he needed the concentrated effort of 5 times weekly sessions to make the needed improvement leading to discharge. The petitioner was discharged as expected by December 2. I have no medical or other evidence from a therapist to explain why 5 sessions weekly were needed as compared to 3 sessions weekly. The petitioner has therefore not met his burden of showing why the Division's therapist's professional opinion was incorrect.

CONCLUSIONS OF LAW

1. The Division correctly approved a reduced amount of PT for the petitioner for November 2013.

THEREFORE, it is

ORDERED

That the petition 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, 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 5th day of February, 2014

\sNancy J. Gagnon
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
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on February 5, 2014.

Division of Health Care Access and Accountability