



FH
[REDACTED]

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

In the Matter of:

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

DECISION

MPA/155863

PRELIMINARY RECITALS

Pursuant to a petition filed February 28, 2014, 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 ["DHCAA"] in regard to Medical Assistance ["MA"], a Hearing was held via telephone on April 15, 2014.

The issue for determination is whether DHCAA was correct to deny Prior Authorization ["PA"] for MA payment for Child/Adolescent Day Treatment ["CADT"] for petitioner.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED] (not present at April 15,
2014 Hearing)
c/o [REDACTED]
[REDACTED]
[REDACTED]

Represented by:

[REDACTED], petitioner's mother
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Jo Ellen Crinion, RN, CPC
Division of Health Care Access and Accountability
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]; 16 years old) is a resident of Wisconsin.
2. Petitioner has diagnosis of Conduct Disorder, mood disorder, and Oppositional Defiant Disorder ["ODD"]; he has a history of substance abuse.
3. Petitioner lives with his mother and her boyfriend; he does not get along too well with his mother's boyfriend (there are arguments, yelling, and fighting); he has a history of aggressive, oppositional, and defiant behaviors (although his aggression has been only toward objects; i.e. walls); he has stolen his mother's car (for which he is currently on probation); he has truancy problems at school.
4. Petitioner's provider, [REDACTED] Center of [REDACTED], Wisconsin, requested PA for MA coverage of CADT for petitioner at the rate of 4 hours per day for 5 days per week (weekdays; includes Family Therapy Program on Thursdays) for 13 weeks at a total cost of \$11,375 with a requested start date of October 28, 2013 (P.A. # [REDACTED] dated October 28, 2013).
5. DCHAA denied petitioner's PA request for CADT (P.A. # [REDACTED]); DCHAA sent a letter to petitioner dated January 17, 2014 and entitled *BadgerCare Plus Notice of Appeal Rights* informing him of the denial.

DISCUSSION

By law, MA pays only for medically necessary and appropriate health care services when provided to currently eligible MA recipients. Wis. Admin. Code §§ DHS 107.01(1) & 107.17(1) (May 2009); See also, Wis. Stat. §§ 49.46(2) & 49.47(6)(a) (2011-12). In order for a service to be *medically necessary* it must meet several specific requirements. See, Wis. Admin. Code § DHS 101.03(96m) (December 2008). DCHAA denied PA in this case because it determined that more cost effective services may be available (such as intensive in-home therapy and intensive outpatient substance abuse treatment). DCHAA states: "The PA was justifiably denied to [sic] because the provider has not documented how the requested CADT is the most cost-effective service available to the member at this time."

One of the requirements for *medical necessity* is that the service must be cost-effective compared to an alternative medically necessary service which is reasonably accessible to the recipient. Wis. Admin. Code § DHS 101.03(96m)(b)8. (December 2008); see also, Wis. Admin. Code § DHS 107.02(3)(e)6. (February 2014). As with any eligibility denial, the burden is on petitioner to show that he is eligible for the requested services. *Lavine v. Milne*, 424 U.S. 577, 583-584 (1976). Petitioner has failed to do so. Although petitioner has offered convincing evidence that he is in need of professional services, he has offered almost no evidence to show that the requested CADT is cost-effective compared alternative services (such as those suggested by DCHAA).

CONCLUSIONS OF LAW

For the reason discussed above, DCHAA was correct to deny petitioner PA for CADT for petitioner.

THEREFORE, it is

ORDERED

that the petition for review herein be and the same is hereby DISMISSED.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or 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 filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 8th day of May, 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 May 8, 2014.

Division of Health Care Access and Accountability