



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/156723

PRELIMINARY RECITALS

Pursuant to a petition filed April 7, 2014, 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 May 22, 2014, by telephone.

The issue for determination is whether petitioner met the criteria for MA coverage of PT.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
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 has diagnoses that include developmental delay, balance problems, malaise, fatigue, neuromuscular symptoms, and retinopathy. He had an Individualized Education Program (IEP) in the 2012-2103 school year that included PT services, but did not have one in the current school year.
3. On February 13, 2014, Bellin Sportsmedicine East requested prior authorization for sixteen PT visits over eight weeks with a start date of February 4, 2013, PA no. [REDACTED]. By a letter dated March 6, 2014, the DHCAA denied the request.

4. The request stated that petitioner is right side dominant, and would benefit from PT to improve in balancing and hopping and his left leg.

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.

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 thus looks at a PA request for medical necessity of the service. The standard is not whether the service will be beneficial or helpful, but whether it is needed. Thus in this case the agency reviewed the request in light of petitioner having no IEP in school and no expression from school professionals, who see petitioner on a daily basis, that petitioner requires intervention. The evaluation notes that petitioner rates in the 35th percentile for his age for body coordination, which is low but not drastically so. He is at the 14th percentile for strength and agility, lower but not necessarily requiring a need for intervention. The overall tenor of the request is that petitioner would benefit from intervention, but it is not a crisis or absolute necessity.

Petitioner's mother testified that she believes he has regressed in his capabilities without intervention this school year. She noted that the school therapist has not seen him since spring, 2013. An IEP meeting is scheduled before school ends.

I conclude that the denial was correct. There simply is not enough evidence of a medical need for the PT rather than the idea that the service would be a nice thing to have. Given that school personnel have not raised questions about petitioner's abilities, the need for intervention is further questioned. I recommend that petitioner's mother follow through at school. If school personnel believe that petitioner has regressed and therapy could be necessary, perhaps a summer program could be formulated with the private therapist, and a new PA request could be filed with the new evidence.

CONCLUSIONS OF LAW

The requested PT services were not shown to be medically necessary.

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 30th day of May, 2014

\sBrian C. Schneider
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 30, 2014.

Division of Health Care Access and Accountability