



FH
[REDACTED]

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

In the Matter of

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

DECISION

MPA/157251

PRELIMINARY RECITALS

Pursuant to a petition filed April 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 in regard to Medical Assistance, a hearing was held on June 09, 2014, at Portage, Wisconsin.

The issue for determination is whether the Department erred in its denial of the PA request for speech and language therapy services in PA # [REDACTED].

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

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

Respondent:

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

By: Theresa Walske, MS, SLP (in writing)
Division of Health Care Access and Accountability
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Columbia County.
2. Petitioner has a diagnosis of autism. She is four years old.

3. Petitioner receives speech and language therapy at her public school.
4. Petitioner’s mother contacted the provider relating to a speech generating device that petitioner had tried. Petitioner’s mother thought the device was helpful and that petitioner liked it. Petitioner’s mother wished to determine whether this was an appropriate option for petitioner.
5. The PA was filed on April 10, 2014 by [REDACTED] Healthcare. The purpose of the requested sessions is to trial and assess whether a speech generating device is an appropriate option for petitioner. The trial and assessment period would involve use of a relatively simple device and would be useful to determine whether petitioner is appropriate for a full evaluation of her own SGD.
6. The provider at [REDACTED] has worked with petitioner in the past but is not a current provider of services to petitioner.
7. The PA was denied by the Department on April 23, 2014.
8. Petitioner appealed.

DISCUSSION

The Division of Health Care Access and Accountability (HCAA) may only reimburse providers for medically necessary and appropriate health care services and equipment listed in Wis. Stat. §§ 49.46(2) and 49.47(6)(a), as implemented by Wis. Admin. Code ch. DHS 107. Some services and equipment are covered if a prior authorization request is submitted and approved by the DHCAA in advance of receiving the service. Finally, some services and equipment are never covered by the MA program.

The Department's review criteria for prior authorization requests are found at Wis. Admin. Code § DHS 107.02(3)(e), DHS 101.03(m) and DHS 107.09(4)(d). DHS 107.02 provides, in relevant part, as follows:

(3) Prior Authorization

(e) Departmental Review Criteria. In determining whether to approve or disapprove a request for prior authorization, the department shall consider:

1. The medical necessity of the service;
2. The appropriateness of the service;
3. The cost of the service;
- ...
6. The extent to which less expensive alternative services are available;
7. The effective and appropriate use of available services;
- ...

"Medically necessary" is defined as a medical assistance service under Chapter 101.03(96m) of the Wis. Admin. Code which is:

- (a) **Required** to prevent, identify or treat a recipient's illness, injury or disability;

(Emphasis added).

* * *

The petitioner has autism and is unable to speak. But, it became clear at the hearing that this provider has not been working with petitioner. The PA was filed based on petitioner’s mother raising a question. The provider followed along and pursued the possibility of getting an SGD but has first sought therapy visits to help determine whether this is a viable option for petitioner.

That does not amount to medical necessity. While it may be that such a device is appropriate, the requirements of the PA request under MA call for medical necessity. At best, the provider is optimistic that this might be a

beneficial option for petitioner. But, that does not mean that ForwardHealth must pay for it. It is the provider’s burden to prove that the PA requirements are met. Perhaps with more information provided they could be. But, at this time and on this record the request is not sufficiently supported.

CONCLUSIONS OF LAW

The Department did not err in denying the request for therapy/evaluation relating to a speech generating device.

THEREFORE, it is ORDERED

That this appeal is 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 13th day of June, 2014

John P. Tedesco
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 June 13, 2014.

Division of Health Care Access and Accountability