



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[Redacted case name and address]

DECISION

MPA/158787

PRELIMINARY RECITALS

Pursuant to a petition filed June 30, 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 September 23, 2014, at Green Bay, Wisconsin.

The issue for determination is whether the Department erred in its denial of the PA request for CADT.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[Redacted petitioner name and address]

Petitioner's Representative:

[Redacted representative name and address]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703
By: Jo Ellen Crinion (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 is a resident of Brown County.
2. Petitioner has various diagnoses including bipolar disorder and polysubstance abuse.

3. Petitioner has had three inpatient stays at [REDACTED] Center in the past year. The most recent began on April 11, 2014. At [REDACTED], petitioner was under the care of Dr. [REDACTED] and Dr. [REDACTED]. The clinical note documentation submitted from [REDACTED] with the PA request indicates that [REDACTED] and [REDACTED] were considering CADT as an option for petitioner but needed additional information to be convinced that CADT was necessary or appropriate. There are no subsequent notes addressing the reasons why CADT is necessary.
4. On April 16, 2014, Dr. [REDACTED] signed a prescription for CADT.
5. Following her stay at [REDACTED], petitioner went to inpatient AODA treatment at [REDACTED]. She was discharged from [REDACTED] on 5/2/14.
6. On or around May 16, 2014, petitioner's provider, Family Services, filed a request for prior authorization for child and adolescent day treatment at a cost of \$14,625. The requested start date was 5/6/14. The submitted documentation did not include a discharge summary from the [REDACTED] stay, nor did it include a discharge summary from the [REDACTED] stay.
7. The Department denied the request by notice dated June 6, 2014.
8. Petitioner appealed.

DISCUSSION

The MA program 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, Chapter DHS 107. Mental health day treatment services can be covered by MA when medically necessary and appropriate. Wis. Admin. Code, §DHS 107.13(4) (May 2009). More specifically, CADT can be covered as a "HealthCheck-Other Service," per Wis. Adm. Code, §DHS 107.22(4). CADT under HealthCheck, are only covered if a prior authorization request is submitted and approved by the Division. Prior authorization normally means, obtaining approval in advance of receiving the service. *Id.*, §(4)(b). The only exception is for the provision of an emergency service. With all such prior authorization requests, it is the provider's duty to justify the provision of the services. Wis. Admin. Code, §DHS 107.02(3)(d)6.

Day treatment services are only to be paid for patients who have an ability to benefit from the service. *Id.*, §(4)(a). The Division's policy document, *Wisconsin Medicaid and BadgerCare Update*, No. 2006-20, requires that a CADT prior authorization include a mental status examination with a five-axis diagnosis, to assist in establishing the need for the service. In addition the prior authorization request must include a signed written multidisciplinary plan that specifies the services to be provided as well as coordination with other agencies involved with the child. It must include measurable goals and objectives consistent with the [REDACTED] assessment.

The Department argues that the PA request must include a substance abuse assessment and details of past inpatient substance abuse treatment at [REDACTED]. But, the PA/CADTA specifies in element 16(d) that such assessment is only necessary if substance abuse programming is part of the treatment plan. It was not. Thus, the assessment was optional and is not a valid basis for denial. As for the details of the [REDACTED] inpatient substance abuse treatment, such information is to be included in a substance abuse assessment per the CADTA Handbook at Topic 3730. But, such an assessment was not required here as substance abuse programming was not part of the CADTA and would be continued at [REDACTED]. Thus, such details were not required under the guidelines.

The Department also argues that the details of a stay at [REDACTED] were not provided supporting medical necessity. The Department argues that duration of stay, interventions and outcomes, medications, lab

results, etc were not provided. But, the PA did include the Bio-Psycho-Social Assessment (completed by Family Services) dated May 6, 2014 indicating her most recent inpatient stay at [REDACTED] as of April 11, 2014. It also included the [REDACTED] evaluation dated April 11, 2014, and a care note dated April 14, 2014. It did not include anything else from the [REDACTED] stay. There is indication in the records that there were two prior inpatient stays at [REDACTED] in the previous year as well. No information was provided about those stays. The Bio-Psycho-Social evaluation does not include any details of past interventions or the effects of them. Given the claim of complex history and seriousness of prior crises and interventions, the absence of this information is surprising.

Part of the objection of the Department is based on the clinical notes of Dr. [REDACTED] (4/11/14) and Dr. [REDACTED] (4/14/14) indicating that additional information was required before they would recommend CADT. The notes indicated the disparity in the reports of petitioner and her mother and question which reports are more accurate. Both doctors indicated a need to get additional information. These notes were dated between April 11 and April 14, 2014. The Department argues that there is no indication that the doctors' remaining concerns were satisfied or why. This is critical in the case because by Dr. [REDACTED]'s own words, as of 4/14/14 he was only *considering* the *possibility* of day treatment. So, even he did not consider this a case in which such need was clear. He was not expressing an acute need for the service or the medical necessity of the service. While Dr. [REDACTED] may have in some way become convinced, causing him to sign a prescription for the service, there is no documentation or explanation in the PA submission to support the change in opinion. The fact of a doctor's prescription is not sufficient for the program to find medical necessity.

Again, it is the burden of the provider to prove to the ForwardHealth Program that the service is medically necessary. There is nothing in the record after the 4/14/14 note from [REDACTED] to indicate why anything changed from the mere possibility that CADT would be necessary or appropriate. It is entirely understandable that without whatever information Dr. [REDACTED] found to persuade him to sign the prescription that the Department is still considering the treatment a "possibility."

The lack of detail provided about the [REDACTED] stays only causes more question and curiosity about the medical need. While the representatives of Family Services at hearing expressed the emergency nature of the CADT and the opinion that this petitioner was among the most critical they have ever seen, that need simply does not come through in the paperwork. It may have been persuasive if the details of the prior hospitalizations had been shared. Furthermore, it was not clear whether CADT had previously been tried or been successful.

Family Services argued at hearing, as it does in the letter-brief that is part of exhibit #5, that it was unable to submit certain documentation because of the acute need for services and the deadline for the PA request. But, the prescription for CADT was written on April 16. The PA was not filed until May 16. Petitioner was discharged from [REDACTED] on or around April 17. Certainly a month should have been enough time to obtain details about the [REDACTED] stay or documentation of the reasoning of her [REDACTED] doctors justifying CADT.

But, the primary basis for the Department's denial was that the paperwork submitted was deficient and did not establish medical necessity of the services. I agree. The documentation paints the picture of a troubled child who has relationship problems with her mother and a complicated history. But from all the disjointed documentation, I do not see the medical necessity for the CADT treatment. It is the provider's burden to justify the medical necessity of the service in the PA request. I cannot find that the Department erred in its denial given the content of the submission of the PA request.

CONCLUSIONS OF LAW

The Department did not err in its denial of the PA request for CADT.

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 2nd day of October, 2014

\sJohn P. Tedesco
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 October 2, 2014.

Division of Health Care Access and Accountability
cabts@familyservicesnew.org