



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

MPA/160216

PRELIMINARY RECITALS

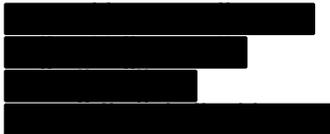
Pursuant to a petition filed August 25, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance, a hearing was held on September 16, 2014, at Kenosha, Wisconsin.

The issue for determination is whether the agency properly modified the Petitioner’s Prior Authorization (PA) request for physical therapy (PT) services.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By: Pamela Hoffman

Division of Health Care Access and Accountability
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # ) is a resident of Kenosha County.

2. Petitioner is a 3 year old child that lives at home. Her diagnoses include muscle weakness and global developmental delay.
3. On June 10, 2014, the Petitioner's provider Tender Touch performed an evaluation of the Petitioner. The provider's goals in the plan of care for the Petitioner are to have her walk over uneven terrain without loss of balance 80% of the time; go up stairs with a reciprocal pattern with hand on rail and minimal assist; go down stairs with a step to pattern with hand on rail and minimal assist; stand on one leg for three seconds and get to and from the floor to standing without using hands.
4. The Petitioner receives direct PT services in school for 30 minutes/week. The specific goals in the IEP for 2014-15 are: improve safe and independent ambulation by ascending and descending stairs with close supervision; stepping over or maneuvering around objects in her path and maneuvering on uneven playground surfaces 3 or 4 measured opportunities. She also receives indirect PT throughout the school day.
5. On June 17, 2014, the Petitioner's provider submitted a PA request for direct PT services 1x/week for 12 weeks.
6. On July 18, 2014, the agency issued a notice to the Petitioner informing her that it had modified the PA request, approving reimbursement for one PT evaluation and treatment and one follow up treatment.

DISCUSSION

Medical assistance covers physical therapy if the recipient obtains prior authorization after the first 35 visits. Wis. Admin. Code, § DHS 107.16(2)(b). When determining whether a service is necessary, the Division must review, among other things, the medical necessity, appropriateness, and cost of the service, the extent to which less expensive alternative services are available, and whether the service is an effective and appropriate use of available services. Wis. Adm. Code, § DHS 107.02(3)(e)1.,2.,3.,6. and 7. "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;
 2. Is provided consistent with standards of acceptable quality of care applicable to the type of service, the type of provider, and the setting in which the service is provided;
 3. Is appropriate with regard to generally accepted standards of medical practice;
 4. Is not medically contraindicated with regard to the recipient's diagnoses, the recipient's symptoms or other medically necessary services being provided to the recipient;
 5. Is of proven medical value or usefulness and, consistent with s. HFS 107.035, is not experimental in nature;
 6. Is not duplicative with respect to other services being provided to the recipient;
 7. Is not solely for the convenience of the recipient, the recipient's family, or a provider;
 8. With respect to prior authorization of a service and to other prospective coverage determinations made by the department, is 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 Petitioner has the burden of proving by the preponderance of the credible evidence that the requested therapy is medically necessary.

The agency contends that the Petitioner's needs can be met through indirect PT services as part of a home exercise program (HEP). It notes that the provider has not documented a caregiver learning barrier and has not demonstrated that the Petitioner's condition will change on a weekly basis to support weekly changes to the HEP. The agency approved reimbursement for the evaluation and two sessions for development of a HEP and follow up visit.

The provider asserts that the Petitioner requires the skills of a therapist on a weekly basis because she needs variable practice to carryover skills learned and she will not learn how to carryover skills with a HEP only. The provider also notes that, as the Petitioner grows, she needs to learn how to control her body.

Based on the evidence and testimony, I conclude the agency properly determined that the Petitioner does not meet the definition of "medical necessity" for approval of PT services 1x/week as requested. The Petitioner's provider has not demonstrated that the Petitioner's condition will change significantly from week to week to require services of a therapist 1x/week. Also, the goals of the school PT services are duplicative of the goals of the private provider. The school PT will also help with the concern of the Petitioner being able to carryover skills learned at home to other settings.

CONCLUSIONS OF LAW

The agency properly modified the Petitioner's request for PT services

THEREFORE, it is

ORDERED

That the Petitioner's appeal 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 Milwaukee,
Wisconsin, this 31st day of October, 2014

\sDebra Bursinger
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 31, 2014.

Division of Health Care Access and Accountability