FH
Redact

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

Redact

DECISION

MPA/164813

PRELIMINARY RECITALS

Pursuant to a petition filed March 18, 2015, 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 occupational therapy (OT), a hearing was held on June 17, 2015, by telephone. Hearings set for May 6 and June 11, 2015 were rescheduled at the petitioner's request.

The issue for determination is whether the OT provider sufficiently justified the proposed services.

PARTIES IN INTEREST:
Petitioner:

Redact

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703
By: Written submission of Re Redact, OT Consultant

ADMINISTRATIVE LAW JUDGE:
Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # Redact) is a 16-year-old resident of Dodge County who receives MA.
2. Petitioner's diagnoses include autism spectrum disorder, sensory processing disorder, and attention deficit hyperactivity disorder.
3. On December 16, 2014, Rehab Resources, Inc. requested prior authorization for once weekly OT services for 26 weeks, PA no. Redact, specifically to do therapeutic techniques and sensory integration. The evaluation included with the request stated that petitioner interacted with her and answered questions, and that his mother filled out the sensory processing measurement form. The

goals listed were that petitioner would tolerate looking at and smelling a new food, he will touch new food with his lips and lick it, he will bite off a piece of new food, and he will stay sleeping in bed without body contact with his mother. The PA request is the first for petitioner since he was pre-school age, and he does not receive OT elsewhere.

4. There is no evidence in the evaluation that the therapist observed petitioner eating or attempting to eat. Petitioner also was referred to a pediatric nutritionist; the results of that referral are unknown.

DISCUSSION

OT is covered by MA under Wis. Admin. Code, §DHS 107.17. Generally OT is covered without need for prior authorization for 35 treatment days, per spell of illness. Wis. Admin. Code, §DHS 107.17(2)(b). After that, prior authorization for additional treatment is necessary. If prior authorization 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 denied the request primarily because the evaluation did not show the medical need for the services.

The Department has taken the position in the past that a comprehensive OT evaluation must include observations of the child's functioning by the therapist, and the Division of Hearings and Appeals has adopted that logic. Ms. Redact notes several prior decisions in her April 24, 2015 case summary. In this case, there are two reasons why the evaluation is insufficient. The therapist did not observe petitioner, and the therapist did not account for the referral to the pediatric nutritionist. As in case no. MPA/158259 cited by Ms. Redact, it remains unknown that the skills of an occupational therapist are needed to rectify petitioner's problems; at this point it is at best a guess.

A further problem with this request is that the Department has concluded, after study and open meetings, that sensory integration techniques with autistic individuals have not been proven to be effective. The determination was made after the PA request was filed in this case, but it provides an additional basis for the denial.

CONCLUSIONS OF LAW

Petitioner's occupational therapist has not established that the requested services would be effective to address petitioner's sensory processing deficits are they pertain to eating and sleeping.

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 25th day of June, 2015

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\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 June 25, 2015.

Division of Health Care Access and Accountability