



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

---

In the Matter of

[Redacted]  
[Redacted]  
[Redacted]  
[Redacted]  
*Redact*

DECISION

MPA/164900

---

**PRELIMINARY RECITALS**

Pursuant to a petition filed March 24, 2015, 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 May 12, 2015, at Neillsville, Wisconsin.

The issue for determination is whether petitioner met its burden to show that the PA for speech and language therapy should have been approved.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[Redacted]  
[Redacted]  
[Redacted]  
[Redacted]  
*Redact*

Respondent:

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

By: [Redacted], OTR (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 Clark County.
2. Petitioner has a diagnosis of autism. She is thirteen years old.

3. In January 2015, petitioner's mother took her to Redact. The clinic determined a pragmatic language disorder secondary to autism.
4. On January 19, 2015, the provider sent in a PA request for speech and language therapy (SLT) for biweekly sessions for 6 months.
5. The PA was returned for additional information and was ultimately denied on February 10, 2015.
6. Petitioner appealed.

### DISCUSSION

Speech and language therapy is an MA-covered service, subject to prior authorization after the first 35 treatment days. Wis. Adm. Code § DHS 107.18(2). In determining whether to approve such a therapy request, the Bureau employs the generic prior authorization criteria found at § DHS 107.02(3)(e). Those criteria include the requirements that a service be medical necessary, appropriate, and an effective use of available services. "Medically necessary" services are those "required to prevent, identify or treat a recipient's illness, injury, or disability. Wis. Adm. Code § DHS 101.03(96m)(a).

Included in the definition of "medically necessary" at § DHS 101.03(96m)(b) are the requirements that services be of proven medical value or usefulness, that services not be duplicative of other services, and that services be cost effective when compared to alternative services accessible to the recipient. When speech therapy is requested for a school age child in addition to therapy provided by the school system, the request must substantiate the medical necessity of the additional therapy as well as the procedure for coordination of the therapies. Prior Authorization Guidelines Manual, Speech Therapy, page 113.001.02.

It is up to the provider to justify the provision of the service. Wis. Adm. Code § DHS 107.02(3)(d)6. An applicant will need to demonstrate that the procedure for which he or she seeks approval is "medically necessary." A "medically necessary" service is

[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;

\* \* \*

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.

*Wis. Admin. Code* §DHS 101.03(96m). The only testimony provided at the hearing was that of the mother, Lois Hall. No medical professional provided testimony.

The crux of the Division's denial of petitioner's request is that the petitioner has not established that private speech and language therapy to address petitioner's "pragmatic social skills" and other speech therapy problems is medically necessary. Petitioner was seen once before, nearly 6 years ago, at this provider. This past January, petitioner's mother visited the provider with the specific question of whether petitioner has a pragmatic language issue like her brother. Petitioner's mother raised several anecdotal accounts which raised her concern including (1) that petitioner likes to fart and burp to get a reaction out of others, (2) that petitioner likes to prepare food but does not follow recipes and results in waste of food; (3) that petitioner gets "grand ideas" and begins projects without an understanding of what it will take to finish the job, (4) petitioner misunderstands social cues including a time when she overstayed her welcome at a home of other children and the family allegedly threatened to call police, (5) that petitioner wears "big huge shirts because she is uncomfortable with her body...she basically just looks like a street person...she just completely covers up."

The provider also conducted an assessment of petitioner on the day she visited. This included parent interview. The provider determined that petitioner had a pragmatic language disorder secondary to autism.

Upon my review of the record and the hearing testimony, I am unconvinced that there is any medical necessity to the requested therapy. The descriptions of concerning behavior appear to me to be very close to typical tween or teen behavior. Some may be embarrassing for the parent, or result in social awkwardness. Farting and thinking it is funny does not seem unusual and is likely to continue on well-past thirteen years old. And, many adolescents dress in ways displeasing to their parents. While I realize that I may not be grasping the severity of the situation as seen by the mother, it is petitioner's burden to demonstrate to me that severity. She has not.

The assessment raises some issues, e.g. lack of eye contact and non-sequiters, but therapy has only been demonstrated to be a possible benefit – not a medical necessity. MA does not cover therapies, items, and procedures which are merely shown to have possible or likely value. The medical necessity threshold is higher. I am also not convinced, based on this record, that private therapy is the mechanism to address the concerns raised by petitioner's mother.

While the petitioner's mother's efforts and desire for her child to achieve as much progress as possible is commendable, the petitioner has not established that the requested private SLT is medically necessary. Accordingly, for the above reasons, I conclude that the Department correctly denied the petitioner's prior authorization (PA) request for individual private therapy.

### **CONCLUSIONS OF LAW**

The Department correctly denied the petitioner's prior authorization request for weekly individual private speech therapy for 6 months, due to failure to establish the medical necessity of those services.

**THEREFORE, it is**

**ORDERED**

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 8th day of June, 2015

---

\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](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on June 8, 2015.

Division of Health Care Access and Accountability