



STATE OF WISCONSIN  
Division of Hearings and Appeals

In the Matter of

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

DECISION

MPA/165357

**PRELIMINARY RECITALS**

Pursuant to a petition filed April 08, 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 14, 2015, at New Richmond, Wisconsin.

The issue for determination is whether the Office of Inspector General correctly denied the petitioner’s request for speech and language therapy.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

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

Respondent:

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

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

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. The petitioner is a resident of *Redact* County.

2. The petitioner's provider, **Redact lact**, requested authorization for 26 weekly, half-hour speech and language sessions at a cost of \$7,176. The Office of Inspector General denied the request on March 24, 2015.
3. The petitioner has been receiving Birth-to-Three services through **Redact lact**.
4. The petitioner is diagnosed with autism. He was born in July 2010. The last time he was tested, his expressive and receptive language skills were in the first percentile.
5. The petitioner receives speech and language therapy twice a week through his school district. The district set a goal for the petitioner to improve his ability to use an augmented communication device: "[Petitioner] will use AAC [augmentative and alternative communication] devices (such as the Big Mac, etc) to indicate wants, needs and choices during structured speech settings with 75% accuracy."
6. **Redact** primary goal is for the petitioner to use the Dynavox speech generating device to "communicate more efficiently at an age appropriate level in all his natural learning environments." The subgoals are for him to use the device to "make requests and/or comments fusing activities," to "locate named icons pertaining to his personal information (i.e. his name, age, address, family, etc.)," and to "communicate taking turns with peers and SLP." **Redact** hopes to have him perform each of these tasks with "70% accuracy, given verbal and gestural cues." *Prior Authorization Request*, p.5.
7. **Redact** has not coordinated its treatment with the school district's.

### DISCUSSION

Medical assistance covers speech therapy if the recipient obtains prior authorization after the first 35 visits. Wis. Admin. Code § DHS 107.18(2)(b). The petitioner and his provider, **Redact lact**, requested 26 weekly, half-hour speech and language sessions at a cost of \$7,176. When determining whether a service is necessary, the Division of Health Care Access and Accountability must review, among other things, the medical necessity of the service. Wis. Admin. Code § DHS 107.02(3)(e)1. "Medically necessary" means a medical assistance service under ch. DHS 107 that is "[r]equired to prevent, identify or treat a recipient's illness, injury or disability." Wis. Admin. Code § DHS 101.03(96m)(a). To ensure that services are medically necessary, speech and language providers "are required to communicate with other providers as frequently as necessary to do the following:

- Avoid duplication of services.
- Ensure service coordination.
- Facilitate continuity of care."

*ForwardHealth Therapies Handbook*, Topic #2781.

Medical assistance policy also requires private providers to "communicate" with school-based providers at least once a year. *ForwardHealth Therapies Handbook*, Topic #2784.

**Redact** request indicates that at some point "collaboration will be conducted with exchanges of IEP and Plan of Cares, treatment notes, and documentation needed to improve the speech-language services..." But the evidence is that no real coordination or communication has or will take place. The petitioner has received Birth-to-Three services through **Redact** for an unknown period. During this time there is no evidence of any documentation showing any communication between **Redact** and the school district.

Even stronger evidence of the lack of communication and coordination is found in the two providers' plans of care. The petitioner, who will be five at the end of July, is diagnosed with autism. His expressive and receptive speech skills are in the first percentile. Because he says only a few words, both his school **Redact** *lact* seek to teach him to use an augmented speech device. In fact, **Redact** latest goals concentrate solely on this area. One would think, given the apparent severity of his autism and his difficulty learning any skills, his school and private providers would teach him to use a single device. But that has not happened. **Redact** had begun teaching him to use a Dynavox, while his school uses a "Big Mac, etc." This inability of the providers to come up with a single communications device demonstrates a lack of coordination and communication between them, which leads to wasted resources.

The petitioner and **Redact** have the burden of proving by the preponderance of the credible evidence that the requested speech therapy is medically necessary. Because there is no evidence that **Redact** and the school district are coordinating their services, they have not met this burden. Therefore, the Office of Inspector General's denial is upheld.

### CONCLUSIONS OF LAW

The Office of Inspector General correctly denied the petitioner's request for speech therapy because he and his provider have not shown by the preponderance of the credible evidence that the services are medically necessary.

**THEREFORE, it is**

**ORDERED**

The petitioner's 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 June, 2015

---

\sMichael D. O'Brien  
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 2, 2015.

Division of Health Care Access and Accountability