



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

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In the Matter of

█ █  
c/o █ █  
█  
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DECISION

MPA/165753

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**PRELIMINARY RECITALS**

Pursuant to a petition filed April 27, 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 June 19, 2015, at Black River Falls, Wisconsin.

The issue for determination is whether the petitioner is entitled to medical assistance reimbursement for Child/Adolescent Day Treatment.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

█ █  
c/o █ █  
█  
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Respondent:

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

By: Jo Ellen Crinion

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 Jackson County.

2. On March 26, 2015, the petitioner with Northwest Journey—Black River Falls requested three months of Child/Adolescent Day Treatment services beginning on March 17, 2015, and ending on June 17, 2015. The cost of the proposed therapy is \$26,000.
3. The petitioner is diagnosed with (1) a major depressive disorder, moderate, single episode and (2) child sexual abuse, confirmed by a later encounter.
4. Northwest Journey's March 2015 treatment plan was not signed by a psychiatrist or psychologist. No treatment plan included a signature from a psychiatrist or psychologist until [REDACTED], a psychiatrist, signed a plan on May 15, 2015.
5. There is no evidence that less expensive means will not address the petitioner's mental health.
6. CADT has not led to fewer instances of the petitioner harming himself and thinking of suicide, the primary symptoms of his mental health problems,.

### DISCUSSION

The petitioner and his provider, Northwest Journey—Black River Falls, requested reimbursement for 13 weeks of Child/Adolescent Day Treatment Services (CADT) services from March 17, 2015, through June 17, 2015, at a cost of \$26,000. These services are available to children with “a primary psychiatry diagnosis of mental illness or severe emotional disorder.” Wis. Admin. Code, § DHS 40.08(3)(a). *Mental illness* is defined as a “medically diagnosable mental health disorder which is severe in degree and which substantially diminishes a child's ability to carry out activities of daily living appropriate for the child's age.” Wis. Admin. Code, § DHS 40.03(16).

The petitioner has talked frequently of suicide and has cut and burned himself. His grades have dropped from A's, B's, and C's to D's and F's. He has established that he has a severe mental illness. This alone does not qualify him for CADT services. He must also meet the “limitations imposed by pertinent...state...interpretations.” Wis. Admin. Code § DHS 107.02(3)(e) 9. The program requires a “written multidisciplinary treatment plan signed by a psychiatrist or clinical psychologist as required in DHS 40.10, Wis. Admin. Code, that specifies the services that will be provided by the day treatment program provider, as well as coordination with the other agencies involved.” *Child/Adolescent Day Treatment Handbook*, found online at <https://www.forwardhealth.wi.gov/WIPortal/Online%20Handbooks/Display/tabid/152/Default.aspx?ia=1&p=1&sa=83&s=2&c=61&nt=Program+Requirements>. Under Wis. Admin. Code, § DHS 40.10(4), a “client's treatment plan shall be reviewed for approval by the program psychiatrist or psychologist.” Although Northwest submitted its plan on March 26, 2015, that plan was not signed by its psychologist, Patrick Lacey. A signature is needed to prove that a psychologist or psychiatrist reviewed and approved the plan of care. It was not until May 15, 2015, two months after therapy began, that Northwest Journey met this requirement when a psychiatrist, [REDACTED], signed a treatment plan. This alone is enough to deny the request.

And the request has other problems. The petitioner has the burden of establishing by the preponderance of the credible evidence that the requested treatment is medically necessary, cost-effective, and an effective and appropriate use of available services. Wis. Admin. Code § DHS 107.02(3)(e)1.,2.,3.,6., and 7. “Medically necessary” is defined in Wis. Admin. Code § DHS 101.03(96m) as 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 was receiving weekly outpatient mental health therapy. It is unclear how much this therapy costs, but it was undoubtedly much cheaper than the \$2,000 a week charged for CADT. Those speaking on his behalf contend that the outpatient therapy was not working. This is difficult to confirm because no one submitted any progress notes from those sessions or anything except vague testimony about his declining mental health. There was testimony that the CADT was helping him overcome the two symptoms that are the primary cause for concern: his suicidal thoughts and his harm to himself. But this is contradicted by an April 23, 2015, letter signed by his mother, his clinical mental health coordinator, and his program coordinator. That letter states:

Despite the increase in self harm and suicidal statements while being at Northwest Journey, I feel that [he] is benefitting from this treatment as he is finally acknowledging issues he was unwilling to discuss before as he is comfortable with his current therapist. In the time that [he] has been with Northwest Journey, staff report he has shown investment in his therapy and regularly and willingly participates in group and individual sessions. He has also begun working on some of his school work.

This letter does suggest that the petitioner has made some progress. However, the ultimate goal of therapy is not to get better at accepting and participating in therapy but rather to reduce or eliminate the mental health problems for which treatment is sought. I am aware that therapy is a process and that improvement is often difficult. Nevertheless, this therapy costs over \$100,000 a year, and the provider and others testifying on the petitioner's behalf have presented no evidence that it will lead to any long-term changes in his behavior. Based upon this and the failure to submit a plan of care reviewed by a psychologist or psychiatrist, I find that the Office of Inspector General correctly denied the request.

### **CONCLUSIONS OF LAW**

The Office of Inspector General correctly denied the petitioner's request for CADT because a psychiatrist or psychologist did not review and approve his plan of care and because he has not shown that the requested therapy is 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 7th day of July, 2015

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\sMichael D. O'Brien  
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 July 7, 2015.

Division of Health Care Access and Accountability