



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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/166363

PRELIMINARY RECITALS

Pursuant to a petition filed May 29, 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 24, 2015, at Appleton, Wisconsin.

The issue for determination is whether the requested OT services are medically necessary.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Mary Chucka, OTR

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

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner is a resident of Outagamie County.

2. On March 16, 2015 the petitioner's provider submitted a prior authorization request for an OT Evaluation, therapeutic exercises, manual therapy, therapeutic activities, and self-care management training. The total cost was \$4,000.
3. The petitioner has attention deficit/hyperactivity disorder (ADHD) and a conduct disorder. He was in a therapeutic treatment center in 2013 and in foster care in 2014. Recently he returned to his mother's home. He has a history of hitting, biting, pushing, and fighting.
4. The primary objective of therapy was to address the petitioner's sensorimotor and sensory integration in order to decrease sensory sensitivities and improve the petitioner's ability in completing in Activities of Daily Living (ADLs) and his ability to participate in daily routines in the home and community.
5. On April 21, 2015 the Department sent the petitioner a letter stating that they denied the petitioner's request for OT services.
6. On June 2, 2015 the Division of Hearings and Appeals received the petitioner's request for fair hearing.

DISCUSSION

OT is covered by MA under Wis. Adm. Code, §DHS 107.17. Generally OT is covered without need for prior authorization for 35 treatment days, per spell of illness. Wis. Adm. 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. Adm. Code, §DHS 107.02(3)(d)6. If the person receives therapy in school or from another private therapist, there must be documentation of why the additional therapy is needed and coordination between the therapists. Prior Authorization Guidelines Manual, p. 112.001.02, nos. 2 and 3.

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 Department denied the request primarily because the evaluation did not show the medical need for the services. The Department points out that the therapist addresses the fact that the petitioner is unable to complete jumping jacks. One of the goals is for the petitioner to complete 10 jumping jacks. They argue that the petitioner's ability to complete jumping jacks has nothing to do with the issues of self-care. Jumping jacks aside, the petitioner has self-care issues. The petitioner refuses to shower. The mother can only get the petitioner to shower one time per week. The petitioner also has difficulty when his clothes or shirt gets wet from something like washing dishes. He has further issues with loud noises. The therapist

lists additional goals related to these sensory issues that interfere with the petitioner's self-care abilities and abilities to complete a daily routine at home and in the community.

It is somewhat unclear to me if the petitioner's inability to complete self-care tasks and a daily routine at home and in the community is related to the petitioner's behavior or sensory issues. I am also somewhat unclear how exactly the OT program is going to help the petitioner with these sensory issues. Nonetheless, the OT therapy goals include improvement in many areas of daily living. The petitioner has not had OT therapy services. He has been in residential treatment and foster care. He currently has a therapist to address his behavioral issues. Despite that therapy his sensory issues persist.

In this case, I disagree with the Department. It is clear from the scores on the sensory test that the petitioner has deficits with his sensorimotor and sensory integration. The OT therapy services are being implemented to address these issues. This petitioner has not had OT therapy in the past. The OT therapy is medically necessary at this point. Progression with this therapy will dictate whether future OT therapy is medically necessary.

I conclude that the requested services are medically necessary. I will order that they be approved. The petitioner's mother should share this decision with the provider, as it requires the provider to resubmit the request along with a copy of this decision for approval.

CONCLUSIONS OF LAW

The requested OT services are medically necessary.

THEREFORE, it is

ORDERED

That the petition 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 Milwaukee,
Wisconsin, this 1st day of July, 2015

\sCorinne Balter
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 1, 2015.

Division of Health Care Access and Accountability