



FH
[REDACTED]

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

In the Matter of

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

DECISION
[REDACTED]

PRELIMINARY RECITALS

Pursuant to a petition filed July 24, 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) prior authorization (PA) for physical therapy (PT), a hearing was held on September 9, 2015, by telephone.

The issue for determination is whether the provider justified the medical need for PT services during the summer.

PARTIES IN INTEREST:

Petitioner:

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

Respondent:

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

By: Written submission of [REDACTED] PT Consultant

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a six-year-old resident of Marinette County who receives MA.
2. Petitioner has cerebral palsy with spasticity. The DHCAA authorized her to receive PT in the summer, 2014 following two surgeries, and she receives regular PT at school.
3. On June 24, 2015, Country Kids, Inc. requested a PA for once weekly PT services for the eleven weeks of the summer, PA no. 5151750114. By a letter dated July 15, 2015, the DHCAA denied the request.

- ██████████
4. The evaluation submitted with the PA did not specify petitioner's limitations in functioning, using phrases such as "decreased" strength and endurance, and "limited" rotation and control. Furthermore, the PA did not specify why the summer services were necessary because petitioner is succeeding in her school PT, there is no reference in the school records as to a need for additional PT in the summer, and there is no significant area that the intended summer PT was going to address differently than the school PT.

DISCUSSION

Physical therapy is covered by MA under Wis. Admin. Code, §DHS 107.16. Generally it is covered without need for prior authorization (PA) for 35 treatment days, per spell of illness. Wis. Admin. Code, §DHS 107.16(2)(b). After that, PA for additional treatment is necessary. If PA is requested, it is the provider's responsibility to justify the need for the service. Wis. Admin. 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, Physical, Occupational, and Speech Therapy, Topics 2781 and 2784.

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 interprets the code provisions to mean that a person must continue to improve for therapy to continue, specifically to increase the ability to do activities of daily living. In addition, at some point the therapy program should be carried over to the home, without the need for professional intervention. Finally the MA program will not pay for therapy if the person already receives therapy from a different provider, with one exception.

In her hearing response dated August 4, 2015, Ms. ██████████ notes two problems with the PA request, first that the evaluation lacks specifics and second that the request does not explain why PT is needed to supplement the school PT. The appeal did not answer either question. Petitioner's mother could only report that her understanding was that the request was made because petitioner always received summer PT in the past. Apparently the provider did not help; petitioner's mother reported that the provider did not offer any assistance when told of the agency's reasoning.

I must conclude that the denial was correct. Without specific descriptions of the recipient's limitations the agency cannot determine if the service is helping the recipient improve. Furthermore, it appears that the

[REDACTED]

summer services were requested for no specific reason or activity, but simply because there was no school PT in the summer.

CONCLUSIONS OF LAW

The DHCAA correctly denied the PA request for PT because it did not justify the need for summer services.

THEREFORE, it is **ORDERED**

That the petition for review 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 14th day of September, 2015

\\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 September 14, 2015.

Division of Health Care Access and Accountability