



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

In the Matter of

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

DECISION

MPA/168188

PRELIMINARY RECITALS

Pursuant to a petition filed August 21, 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 September 29, 2015, at Elkhorn, Wisconsin.

The issue for determination is whether the agency properly modified the Petitioner's PA request for physical therapy.

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: Kristen Derenne

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

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Walworth County. He is 4 years old and lives with his family.

2. The Petitioner's primary diagnoses include mixed developmental disorder, muscle weakness and lack of coordination. The Petitioner has a history of seizures. Impairments include low muscle tone, decreased strength with weakness over right side, motor in-coordination, poor balance, high level of fatigue. Petitioner also has significant delays in cognition and communication skills. He does not communicate verbally. He expresses negative behavior when frustrated over lack of communication skills. He uses bilateral SMOs to improve gait pattern and ankle stability.
3. Petitioner has been attending physical therapy sessions 1x/every other week since October, 2014.
4. On June 25, 2015, a progress note from PT indicates that Petitioner is independent with walking and floor transitions. He requires stand-by assistance with car transfers. He is independent with safe transfers on/off furniture. He can propel a 3-wheeled scooter with supervision and assist to steer. He requires assistance with tub transfers, stair negotiation, curb transfers. He is unable to ride a tricycle, jump, stand on one foot without support. He has difficulty walking over surface changes and navigating over obstacles.
5. Petitioner's home exercise program includes use of a trampoline to work on jumping skills, encouragement to walk up/down stairs by himself, going to the park to work on climbing and other skills on playground. The program also encourages parents/family members to help Petitioner use ride-on toys, practice throwing and kicking, play games, use push/pull toys, get involved with organized activities, set up obstacle courses, encourage imaginary play and help with chores.
6. On June 29, 2015, a PA request was submitted by the Petitioner's provider, [REDACTED], requesting physical therapy (PT) services for the Petitioner at a frequency of one time per week for 26 weeks with a start date of July 23, 2015.
7. On July 20, 2015, the agency issued a notice to the Petitioner that it had approved 6 sessions of PT services for the period of July 23, 2015 – July 21, 2016. On September 8, 2015, the agency notified the provider that the period of approval was revised to July 23, 2015 – January 22, 2016.

DISCUSSION

The agency explained in its summary dated September 9, 2015 that it modified the PA request because the documentation submitted with the PA did not demonstrate that the skills of a physical therapist are needed at the requested frequency to treat the Petitioner. The agency noted that the Petitioner's listed functional impairments have not changed from the previous PA request and that the provider has not objectively quantified the problems being targeted or how his impairments have changed from October, 2014 to the current PA request as a result of the PT services. The agency contends that the provider must present evidence that a functional problem is correlated with a treatment limitation that can be objectively quantified and qualified in order to measure progress toward functional goals. The agency further contends that the treatment interventions do not require the skills of a physical therapist but can be done by family members as part of the home exercise program.

At the hearing, the Petitioner's mother testified that the Petitioner had regressed recently in his skills due to a change in medications. In December, 2014, the Petitioner had two seizures. The seizure medication dosage was increased which led to increased lethargy. He was unable to effectively participate in physical therapy activities for approximately 6 months, causing a regression in skills. New medication was started in July, 2015 with the hope that he will have increased energy. Now that his seizures are under control and his energy level has increased, she would like to have him "catch up" after the skills regression. With PT at one time per week, she feels he will be able to progress more quickly.

The provider did not submit sufficient documentation to substantiate or support the Petitioner's mother's testimony of why the Petitioner requires the skills of a PT one time per week. It is the provider's responsibility to submit documentation to support the request. The documentation submitted was limited

to a progress note from June, 2015 and the therapist concluded that the medication changes resulted in only a mild regression in skills. Without additional documentation, I must concur with the agency that there is insufficient evidence to demonstrate that the skills of a therapist are needed on a weekly basis and that PT services have resulted in objective and measurable changes in functional limitations.

CONCLUSIONS OF LAW

The agency properly modified the PA request for PT services.

THEREFORE, it is **ORDERED**

That 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 Milwaukee,
Wisconsin, this 13th day of November, 2015

\sDebra Bursinger
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 November 13, 2015.

Division of Health Care Access and Accountability