



STATE OF WISCONSIN  
Division of Hearings and Appeals

In the Matter of:

██████████  
c/o ██████████  
██████████  
██████████

DECISION

MPA- 174354

**PRELIMINARY RECITALS**

On May 11, 2016, the above petitioner filed a Hearing request, under Wis. Stat. § 49.45(5) and Wis. Admin. Code § HA 3.03(1), to challenge a decision by the Division of Health Care Access and Accountability [“DCHAA”] regarding Medical Assistance [“MA”]. The Hearing was held via telephone from Madison, Wisconsin on June 21, 2016.

The issue for determination is whether DCHAA was correct to deny Prior Authorization [“PA”] for MA payment for Occupational Therapy [“OT”] for petitioner.

There appeared at that time via telephone the following persons:

**PARTIES IN INTEREST:**

Petitioner:

██████████  
c/o ██████████  
██████████  
██████████

(██████████ was not present at the June 21, 2016 Hearing)

Represented by:

██████████, petitioner’s mother  
██████████  
██████████

Respondent:

Department of Health Services

██████████, OTR  
Division of Health Care Access and  
Accountability  
PO Box 309  
Madison, WI 53701-0309  
[Ms. ██████████ did not appear at the June  
21, 2016 Hearing but submitted a letter  
dated June 14, 2016 with attachments.  
See, Exhibit #2).

ADMINISTRATIVE LAW JUDGE:  
Sean Maloney  
Division of Hearings and Appeals

### **FINDINGS OF FACT**

1. Petitioner (4 years old) is a resident of Wood County, Wisconsin.
2. On April 6, 2016 petitioner's provider, [REDACTED], Wisconsin, requested PA (PA # [REDACTED] dated April 6, 2016) for MA coverage of OT for petitioner at the rate of 2 times per week for 26 weeks for 90 minutes each time with a requested start date of May 13, 2016 at a total cost of \$8,040.00. Exhibit #2.
3. On May 2, 2016 DCHAA denied PA # [REDACTED]; DCHAA sent a letter to petitioner dated May 2, 2016 and entitled *BadgerCare Plus Notice of Appeal Rights* informing him of the denial. Exhibits #1 & #2.
4. Petitioner has diagnosis of apraxia, hyperactivity, and receptive/expressive language disorder; he has significant delays in fine motor skills, balance, self-care, and sensory processing; petitioner's medical doctor ["MD"], a developmental behavioral pediatrician, has documented that the professional skills of an Occupational Therapist are needed to treat petitioner's problems. Exhibits #2, #3 & #4.
5. Petitioner has received approval of 1 previous PA request for OT service from DCHAA; PA # [REDACTED] was approved to grant 52 OT sessions for dates of service November 12, 2015 to May 12, 2016. Exhibit #2.
6. Quantifiable measurable baselines with respect to all of the goals identified by the provider have not been adequately established. Exhibit #4.

### **DISCUSSION**

By law, MA pays only for medically necessary and appropriate health care services when provided to currently eligible MA recipients. Wis. Admin. Code §§ DHS 107.01(1) & 107.16(1)(a) (August 2015); See also, Wis. Stat. §§ 49.46(2) & 49.47(6)(a) (2013-14). In order for a service to be *medically necessary* it must meet several specific requirements. See, Wis. Admin. Code § DHS 101.03(96m) (December 2008).

First, one of the requirements for *medical necessity* is that the service must be "required to prevent, identify or treat a recipient's illness, injury or disability." Wis. Admin. Code § DHS 101.03(96m)(a) (December 2008). DCHAA argues that the requested OT is not medically necessary because the PA "no longer supports a skilled level of OT service is required." Exhibit #2. However, as noted above, petitioner has received approval of 1 previous PA request for OT service from DCHAA for the time period November 12, 2015 to May 12, 2016. DCHAA fails to adequately explain why a skilled level of OT service was required at that time but is not now. Furthermore, the deficits petitioner has are of a type that are normally address with skilled OT services and petitioner's doctor, a developmental behavioral pediatrician, has documented that the professional skills of an Occupational Therapist are needed to treat petitioner's problems. For these reasons, DCHAA's first argument must fail.

Second, DCHAA also argues that the PA request "has not included objective measurements of the member's deficits with correlation to his performance on functional tasks." Exhibit #2. Reasons for limited performance must be identified, targeted, and objectively measured so that a baseline of abilities

and limitations can be established at the initiation of treatment to which results of treatment can later be compared. Baselines enable progress toward a goal to be measured. If no starting point is known, it is not possible to know how far a person has progressed (or regressed). Further, baselines are necessary to determine if the stated goals of the requested therapy are necessary and realistic. If the baseline for a goal is high the goal may not be necessary, if it is low the goal may not be realistic.

Baselines must use units of objective measurement that can be consistently applied when reporting subsequent status (for example: Range of Motion ["ROM"] should be measured in degrees). Baselines must be specific, measureable, and objective. Words such as better, improved, calmer, happier, pleasant, less/more, not as good, not as reliable, longer, more prolonged, and goal not met are not specific, measureable, and objective. *ForwardHealth: Prior Authorization / Therapy Attachment (PA/TA) Completion Instructions*, [F-11008A (07/12)], pp. 4-5; See also, Wis. Admin. Code § DHS 106.02(9)(e)1. (January 2014).

In this case, based on the documentation that is part of the record of this matter, quantifiable measurable baselines with respect to all of the goals identified by the provider have not been adequately established. Baselines such as "has difficulty attending to activities", "very impulsive", "has difficult time moving between activities", "Program not established", "Introduced at quarter", "required maximal assistance", and "demonstrated difficulty" are not specific, measureable, and objective. See, Exhibit #4.

Services are not reimbursable under the MA program unless documentation requirements are satisfied. Wis. Admin. Code § DHS 106.02(9)(f) (January 2014). The provider is responsible to submit the complete documentation necessary to support a prior authorization request. Wis. Admin. Code § DHS 106.02(9)(e)1. (January 2014). In this case, the documentation is not complete because it does not adequately establish quantifiable baselines with respect all of the goals identified by the provider.

Petitioner may file a new PA request once quantifiable baselines, which are specific, measureable, and objective, have been established.

### **CONCLUSIONS OF LAW**

For the reasons discussed above, DCHAA was correct to deny PA for payment by the MA program for OT.

**NOW, THEREFORE, it is**

### **ORDERED**

That the petition for review herein be and the same 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.

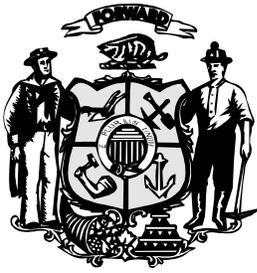
## APPEAL TO COURT

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, **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 29th day of 2016

\s \_\_\_\_\_  
Sean Maloney  
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 June 29, 2016.

Division of Health Care Access and Accountability