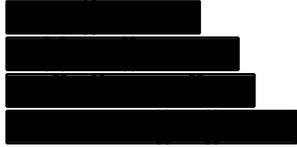




STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of:



DECISION

MPA- 174585

PRELIMINARY RECITALS

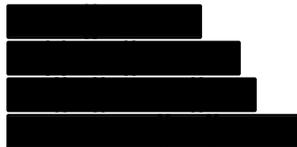
On May 20, 2016, the above petitioner filed a Hearing request under Wis. Stat. § 49.45(5) and Wis. Admin. Code § HA 3.03(1), to challenge a decision by the Division of Health Care Access and Accountability [“DCHAA”] regarding Medical Assistance [“MA”]. The Hearing was held via telephone from Madison, 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 at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:



(was not present at the June 21, 2106 Hearing)

Represented by:



Respondent:

Department of Health Services

a, OTR
Division of Health Care Access and
Accountability
PO Box 309
Madison, WI 53701-0309

ADMINISTRATIVE LAW JUDGE:
Sean Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]; 17 years old) is a resident of Lincoln County, Wisconsin.
2. On March 10, 2016 petitioner's provider, Ministry Sacred Heart Hospital of Tomahawk, Wisconsin, requested PA (PA # [REDACTED] dated March 10, 2016) for MA coverage of OT for petitioner at the rate of 1 time per week for 5 weeks for 60 minutes each time with a requested start date of March 9, 2016 at a total cost of \$1,552.00. Exhibit #2.
3. On May 4, 2016 DCHAA denied PA # [REDACTED]; DCHAA sent a letter to petitioner dated May 4, 2016 and entitled *BadgerCare Plus Notice of Appeal Rights* informing her of the denial. Exhibits #1 & #2.
4. Petitioner has diagnosis of "other specified anxiety disorders" and suffers from seizures. Exhibits #1 & #2.
5. Petitioner receives counseling services to help with her anxiety; petitioner has not provided documentation of the coordination of the treatment plan between the requested OT and the counseling she receives. Exhibit #2.

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) & 107.18(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). This is a denial of eligibility for services; it is not discontinuation of services. As with any eligibility denial, the burden is on petitioner to show that he is eligible for the requested services. *Lavine v. Milne*, 424 U.S. 577, 583-584 (1976). Petitioner has failed to do so.

In determining whether to approve or disapprove a request for prior authorization, DCHAA is required to consider the limitations imposed by pertinent federal or state statutes, rules, regulations or interpretations, including Medicare, or private insurance guidelines. Wis. Admin. Code § DHS 107.02(3)(e)9. (August 2015). Guidelines for PA in the State of Wisconsin require documentation of coordination of services with other service providers. *ForwardHealth* Topics #2886 & #2781. In this case no documentation exists of coordination between petitioner's counseling and the requested OT. For this reason, DCHAA was correct to deny PA to petitioner.

A request for PA must contain justification for the provision of the requested service. Wis. Admin. Code § DHS 107.02(3)(d)6. (August 2015). Furthermore, each provider is solely responsible for the truthfulness, accuracy, timeliness, and completeness of PA requests. This includes the truthfulness, accuracy, timeliness, and completeness of the documentation necessary to support each PA request. Wis. Admin. Code § DHS 106.02(9)(e)1. (January 2014). The documentation prepared by the provider must also be legible and concise. Wis. Admin. Code § DHS 106.02(9)(a)(intro.). (January 2014). Services are non-reimbursable under the MA program unless the documentation requirements are met. Wis. Admin. Code § DHS 106.02(9)(f) (January 2014).

It appears that petitioner may have already received the requested OT services. Petitioner should note that the Wisconsin Administrative Code makes abundantly clear that the provider is solely responsible for the accuracy and completeness of PA requests. Wis. Admin. Code § DHS 106.02(9)(e)1. (January 2014). When a service must be authorized by DHCAA in order to be covered, the recipient may not be held liable by the certified provider unless the prior authorization was denied by DHCAA and the recipient was informed of the recipient's personal liability before provision of the service. Negligence on the part of the certified provider in the prior authorization process shall not result in recipient liability. Wis. Admin. Code § 104.01(12)(c) (December 2008).

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.

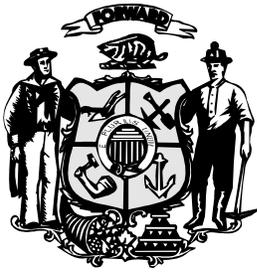
APPEAL TO COURT

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 1st day of 2016

\s _____
Sean Maloney
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
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Madison, WI 53705-5400

Telephone: (608) 266-3096
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email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on July 1, 2016.

Division of Health Care Access and Accountability