FH

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[redacted]

DECISION

MNP/143784

PRELIMINARY RECITALS

Pursuant to a petition filed September 11, 2012, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03, to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance, a telephone hearing was held on October 11, 2012.

The issue for determination is whether petitioner is eligible for payment by the Medical Assistance (MA) program for the over the counter medication, chewable calcium, and for Prenatal 19 chewable tabs.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:
Petitioner:

[redacted]

Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703
By: Kimberly Smithers
Division of Health Care Access And Accountability
Madison, WI

ADMINISTRATIVE LAW JUDGE:
Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Dane County who is certified for MA.
2. Following a gastric bypass operation, petitioner's physician prescribed a certain vitamin regimen to petitioner. In accordance with said prescriptions, petitioner's pharmacy provider, Walgreen 's Pharmacy, dispensed to the petitioner ferrous gluconate, Prenatal 19 Chewable Tabs, and chewable calcium.

3. The Division denied the payment for certain of the mineral and vitamin prescriptions.

4. Medicaid Systems specialist, Kimberly Smithers sent a September 25, 2012, letter to the petitioner and DHA summarizing the reasons for the non-payment of petitioner's pharmacy charges. See Exhibit 3.

DISCUSSION

The Bureau may only reimburse providers for medically necessary and appropriate health care services and equipment listed in Wis. Stat. §§ 49.46(2) and 49.47(6)(a), as implemented by Wis. Admin. Code Ch. DHS 107. Some services and equipment are covered if a prior authorization request is submitted and approved by the Bureau in advance of receiving the service. Finally, some services and equipment are never covered by the MA program.

In this case, the request for payment of the ferrous gluconate was, in fact, covered by the respondent. Petitioner's request for hearing had reference d that the respondent had not paid for ferrous gluconate (324 mg tabs) on or about September 7, 2010. Respondent replied that its records establish a paid claim for ferrous gluconate tabs on September 7, 2010. Petitioner did not provide any evidence to refute the respondent's claim.

Prenatal 19 chewable tabs were not paid for; respondent reported that this was due to the fact that Prenatal 19 tabs are diagnosis restricted. They cannot be approved for payment without a prior authorization. See, Exhibit 2, ForwardHealth online *Pharmacy Handbook*, Topic 12997, "Prior Authorizations for Drugs Outside Approved Diagnoses." Respondent did not locate any prior authorization for these pills. Petitioner argues that this medication is crucial, due to her history of gastric bypass. She does not assert that her pharmacy provider ever submitted a prior authorization request.

Over the counter chewable calcium, was determined to be a non-covered service, and thus the requested payment by the MA program was denied. At hearing, petitioner testified that the calcium was actually calcium citrate, and was not a chewable tablet. This contradicts the petitioner's own request for hearing, which specifically references "chewable calcium." As such, I am unable to establish the status of the petitioner's complaint here. I conclude that, in any event, petitioner has not established that the respondent's determination that chewable calcium is a non -covered over the counter product is in error.

Based upon the evidence in the hearing record and the testimony provided, I conclude that the respondent paid the ferrous gluconate claim, and did not err in denying payment for the Prenatal 19 chewable tabs or the chewable calcium. That is not to say that those vitamins and minerals are not vital to the maintenance of petitioner's health; I have only concluded that the respondent correctly established a proper rationale for its determination of non-coverage.

CONCLUSIONS OF LAW

1. The MA program paid the ferrous gluconate claim dated September 7, 2012.
2. The MA program correctly denied payment for the petitioner's Prenatal 19 chewable tabs because that drug is diagnosis-restricted, and requires a prior authorization request for use outside of the approved diagnosis.
3. The MA program correctly denied payment for the petitioner's chewable calcium because it is a non-covered over the counter product.

THEREFORE, it is **ORDERED**

The petition for review herein be and the same is hereby Dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found 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 served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Madison,
Wisconsin, this 14th day of November, 2012

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Peter McCombs
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 14, 2012.

Division of Health Care Access And Accountability