



STATE OF WISCONSIN  
Division of Hearings and Appeals

---

In the Matter of

[REDACTED]

DECISION

MPA/144848

---

**PRELIMINARY RECITALS**

Pursuant to a petition filed October 27, 2012, 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) authorization for Cymbalta, a hearing was held on November 28, 2012, by telephone.

The issue for determination is whether Cymbalta is intended to cover petitioner's diagnosis.

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]

Respondent:

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

By: Written submission of Lynn Radmer, R.Ph.

**ADMINISTRATIVE LAW JUDGE:**

Brian C. Schneider  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is a resident of Rock County who receives MA.
2. On October 10, 2012, Sam's Club Pharmacy requested prior authorization for 60 mg. daily Cymbalta, PA no. [REDACTED]. Petitioner's diagnosis is listed as stress incontinence.
3. By a letter dated December 21, 2009, the DHCAA denied the request because the diagnosis is not one for which Cymbalta is approved.

### DISCUSSION

The DHCAA 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 the Wisconsin Administrative Code, Ch. DHS 107. The specific medical necessity requirements at issue are as follows:

"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;
  - ...
  5. Is of proven medical value or usefulness and, consistent with s. HFS 107.035, is not experimental in nature.

Wis. Admin. Code, §DHS 101.03(96m). It is the provider's responsibility to justify the need for the service. Wis. Admin. Code, §DHS 107.02(3)(d)6.

The DHCF's position is that Cymbalta is a drug that increases brain hormones to help maintain mental balance and stop movement of pain signals in the brain, with accepted uses in the treatment of depression, fibromyalgia, diabetic neuropathy, anxiety, and chronic musculoskeletal pain. See the DHCAA case summary, page 3. There is some literature that Cymbalta is also useful in treating stress incontinence, but the Department has determined the literature is not reliable enough to approve Cymbalta for that diagnosis. The most reliable studies show Cymbalta to be effective for only the diagnoses listed above.

Petitioner testified that the Cymbalta has been effective for him. However, the Division of Hearings and Appeals does not have authority to approve the drug in the absence of department approval. Petitioner's doctor, and others who advocate for use of the drug for incontinence, will have to convince the Department that it is effective.

### CONCLUSIONS OF LAW

The DHCAA correctly denied authorization for Cymbalta for petitioner because it is not approved for use with petitioner's diagnosis.

**THEREFORE, it is**

**ORDERED**

That 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 5th day of December, 2012

---

\sBrian C. Schneider  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin \DIVISION OF HEARINGS AND APPEALS**

David H. Schwarz  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on December 5, 2012.

Division of Health Care Access And Accountability