



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

MPA/144666

PRELIMINARY RECITALS

Pursuant to a petition filed October 22, 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 Ensure Plus, a hearing was held on January 24, 2013, by telephone. The hearing was a rehearing granted by the Division of Hearings and Appeals on December 7, 2012.

The issue for determination is whether the request for Ensure Plus showed a need for the product as required by MA policy.

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 12-year-old resident of Lincoln County who receives MA.
2. Petitioner has cerebral palsy with cognitive dysfunction with a history of eosinophilic esophagitis.
3. On September 27, 2012, Marshfield Clinic Pharmacy requested prior authorization for three cans of Ensure Plus per day, PA no. [REDACTED]. The request was denied by a letter dated October 10, 2012.

4. The PA request noted petitioner's diagnoses as loose stools, malabsorption of fat, and adequate interval weight gain. The request was returned requesting clinical documentation of the medical conditions including the malabsorption of fat and eosinophilic esophagitis. The response indicated that petitioner refuses any form of caloric augmentation except Ensure, and a later response noted that he trialed on Carnation Instant Breakfast but refused. The documentation did not include any evidence that petitioner had an oral-pharyngeal tissue injury or defect, or that petitioner had a pathology that prevents digestion, absorption, or utilization of nutrients. The request also did not include any information on petitioner's current diet.

DISCUSSION

The Wisconsin Administrative Code, §DHS 107.10(2)(c) requires providers to seek prior authorization for food supplements. Products that do not meet the §107.10(2)(c) criteria are denied. §DHS 107.10(2)(c) states that medically necessary nutritional supplements used for the treatment of severe health conditions such as pathologies of the gastrointestinal tract or metabolic disorders can be covered by MA. The DHCAA drafted criteria for reviewing prior authorization requests for such supplements.

The prior authorization guidelines for food supplements such as Ensure Plus were changed in January, 2011; providers were notified in Forward Health Update no. 2011-88, effective January 15, 2012. A supplement can be approved where the following disorders exist:

- A severe swallowing disorder due to oral -pharyngeal tissue injury, trauma, excoriation (i.e., lesions, mucositis), or defect.
- Pathology of the gastrointestinal (GI) tract that prevents digestion, absorption, or utilization of nutrients that cannot otherwise be medically managed.
- Transition from tube feeding (enteral or parenteral) to an oral diet.

In addition, the person must require the supplement because regular foods cannot be ingested to provide sufficient nourishment. The policy specifically disallows coverage for swallowing disorders that are behavioral, neurological, or psychological in nature. The DHCAA denied the request because documentation did not support the need for the supplement.

The DHCAA case summary notes that eosinophilic esophagitis is a condition involving an inflammatory process in the esophagus caused by certain food/triggers. The standard treatment is to eliminate the triggers from the diet. That is why the DHCAA requested information on petitioner's diet and history – to determine if the triggers had been searched for. In addition the documentation did not support the statement that petitioner has malabsorption of fat.

I conclude that the denial was correct. If the MA policy requires certain information for approval, then the provider needs to present that information. I urge petitioner's mother to take the DHCAA case summary dated November 14, 2012 to petitioner's providers. If a case can be made for the need for Ensure Plus, the providers should utilize the recommendations in case summary to file a new prior authorization request that shows the need for Ensure based upon the MA policy.

CONCLUSIONS OF LAW

The DHCAA correctly denied a request for Ensure Plus because the request did not adequately document the need for the product.

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 28th day of January, 2013

\sBrian C. Schneider
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 January 28, 2013.

Division of Health Care Access And Accountability