



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION ON REHEARING

MPP/150744

PRELIMINARY RECITALS

Pursuant to a petition filed July 18, 2013, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability (Division or DHCAA) in regard to Medical Assistance (MA), a hearing was scheduled on August 29, 2013. The petitioner petitioner failed to appear, and the appeal was dismissed. The petitioner requested rehearing, which was granted. The new hearing was then held on October 30, 2013, by telephone. Because the Division indicated that it had not received notification of the hearing, the record was held open for seven days for the Department to file a written argument, and an additional seven days for response and information from the petitioner (14 days total).

The issue for determination is whether the DHCAA correctly seeks to place the petitioner into the MA recipient provider lock-in program.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Monica Yeazel, R.Ph., Pharmacist Consultant
Division of Health Care Access And Accountability
Madison, WI

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of La Crosse County. She is certified for MA/BadgerCare Plus.
2. The Division did a review of petitioner's prescription drug usage during the period June 10, 2012 through April 29, 2013. It was discovered that the petitioner was obtaining opioid analgesics, two stimulants, and alprazolam from 22 different prescribers and 10 pharmacies. More specifically, during the period February through April 2013, the petitioner used at least 8 different prescribers and 6 pharmacies to obtain potentially habit forming drugs.
3. By a notice dated June 5, 2013, the DHCAA informed petitioner that it intended to place her in the MA lock-in program.
4. The petitioner was in a car accident in February 2012, which resulted in a dislocated hip. Surgery followed, and the petitioner continues to have some pain. She developed dental problems in 2013, including impacted wisdom teeth. Dr. [REDACTED] is her current dental provider, and he has completed restorative care (not extractions). His statement declares that he first saw the petitioner on April 25, 2013. She also requires anti-anxiety medications. The petitioner stated that her long-time anti-anxiety prescriber retired 18 months ago, and that she has been seen by several successor prescribers since; that series of prescriptions, standing alone, was not the Division's basis for seeking lock-in status. The Division's medication records, the contents of which were not contested here, show that the petitioner obtained excessive amounts of painkillers during the survey period. *See*, Exhibit 1.

DISCUSSION

The Wisconsin Administrative Code, §DHS 104.03(1)(a), provides as follows:

If the department discovers that a recipient is abusing the program, including abuse under s. DHS 104.02(5), the department may require the recipient to designate, in any or all categories of health care provider, a primary health care provider of the recipient's choice, except when free choice is limited under s. DHS 104.035.

The designation of a primary provider is known as the MA lock-in program. Included in the abuses under s. DHS 104.02(5) are (i) "knowingly obtaining health care in excess of established program limitations, or knowingly obtaining health care which is clearly not medically necessary," and (j) "knowingly obtaining duplicate services from more than one provider for the same health care condition." When a person receives prescriptions for addictive drugs from a number of different doctors, and fills them at different pharmacies, the DHCAA becomes suspicious of the person's motives.

The petitioner stressed her need for painkillers for pain relief. She also testified that she lacks a driver's license, so she is at the mercy of available drivers for selecting a pharmacy location. I do not doubt that she has serious medical and psychological issues that require medication. However, I share the DHCAA's concern for her well-being. Given that the petitioner has a complicated medication regimen, her pattern of going to multiple physicians and multiple pharmacies looks like a drug interaction disaster waiting to happen. The post-hearing note from the 2013 dentist, Dr. [REDACTED], did not explain why the petitioner was receiving excessive amounts of painkillers before he saw her at the end of April 2013. *E.g.*, she received a painkiller prescription from Dr. [REDACTED] (Prairie du Chien) on 2/12/13, another from Dr. Uhe (Virocqua) on 2/23/13, and another on 2/1/13 from a third, unknown doctor (not dentist [REDACTED]). Thus, I will conclude that the DHCAA was correct to place the petitioner into lock-in status here. *The petitioner expressed a desire to have Walgreen's at Mormon Coulee, La Crosse, be her primary pharmacy.*

CONCLUSIONS OF LAW

1. The DHCAA correctly sought to place the petitioner into the MA recipient lock-in program, based on the audit results of the petitioner's prescription usage for the June 2012 –April 29, 2013, period.

THEREFORE, it is

ORDERED

That the petition is dismissed.

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 3rd day of December, 2013

\sNancy J. Gagnon
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 December 3, 2013.

Division of Health Care Access And Accountability