



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/160599

PRELIMINARY RECITALS

Pursuant to a petition filed September 15, 2014, 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 amphetamine salt tablets, a hearing was held on October 8, 2014, by telephone.

The issue for determination is whether the requested drugs can be approved for petitioner's diagnosis.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
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 52-year-old resident of Marinette County who receives MA.
2. Petitioner has idiopathic hypersomnia, and has been treated for it with amphetamine salt tablets, the generic form of Adderall. In previous prior authorization requests her diagnosis was listed as attention deficit/hyperactivity disorder (ADHD). Petitioner does not have ADHD.
3. On May 29, 2014, [REDACTED] requested authorization for the tablets, PA no. [REDACTED]. The diagnosis listed on the request was "sleep disorder." By a letter dated August 6, 2014, the DHCAA denied the request because the drug is not approved for unspecified sleep disorders.

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 Department has developed standards for drugs that have a strong potential for abuse or addiction, of which the amphetamine salt combination is one. Such drugs are approved only for uses accepted by the Food and Drug Administration. See OIG case summary, page 3. The FDA accepts this drug for only two diagnoses – ADHD and narcolepsy. *Id.*, page 4. If a provider seeks to prescribe the drug for another diagnosis, the provider must submit medical literature to support the efficacy of the drug for the diagnosis. The OIG case summary includes attachments that show the process for getting approval of drugs and the limitations on individual drugs.

In this case the diagnosis is listed as sleep disorder. Following the hearing petitioner sent me a medical note showing the diagnosis as idiopathic hypersomnia, which is defined as a sleep disorder without clear cause. See on the internet MedlinePlus at <http://www.nlm.nih.gov/medlineplus/ency/article/000803.htm>: "Idiopathic hypersomnia is a sleep disorder without a clear cause, in which you are excessively sleepy (hypersomnia) during the day. It is different from narcolepsy, because idiopathic hypersomnia does not involve suddenly falling asleep or losing muscle control due to strong emotions (cataplexy)."

I conclude that the denial of the drug was correct. Because petitioner does not have a diagnosis for which the requested drug is accepted, it cannot be approved for coverage by MA. This is true even though petitioner has been prescribed the drug for approximately three years and it has been paid because an incorrect diagnosis code was entered (it is possible that the Department will seek recovery from the pharmacy of MA paid for petitioner's drugs due to use of the wrong diagnosis code). To get approval now petitioner's doctor would have to provide the DHCAA evidence to support the drug's effectiveness for petitioner's diagnosis.

CONCLUSIONS OF LAW

The DHCAA correctly denied authorization for the requested drug because its use is not accepted for petitioner's diagnosis.

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, Madison, Wisconsin 53703, **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 15th day of October, 2014

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



State of Wisconsin \DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

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

The preceding decision was sent to the following parties on October 15, 2014.

Division of Health Care Access and Accountability