



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[Redacted]
[Redacted]
Redact

DECISION

MPA/165303

PRELIMINARY RECITALS

Pursuant to a petition filed April 7, 2015, 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 (DHCAA or Division) in regard to Medical Assistance (MA)/BadgerCare Plus (BCP), a hearing was held on May 26, 2015, by telephone.

The issue for determination is whether the Division correctly denied a prior authorization request for a prescription drug, amphetamine salt combination 20 mg tablets.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[Redacted]
Redact

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By written submission of [Redacted], R.Ph.
Division of Health Care Access and Accountability
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [Redacted]) is a resident of Waupaca County. He is certified for MA or BCP.

2. On February 2, 2014, a prior authorization request was submitted on the petitioner's behalf for a prescription drug, amphetamine salt combination 20mg tablets (popularly known as Adderall). The Division issued written notice of denial on March 24, 2015.
3. The Division's basis for denial is that this drug is a "diagnosis-restricted" drug, and the petitioner does not have one of the diagnoses for which this drug is allowed.
4. The petitioner, age 53, has diagnoses of idiopathic hypersomnia and asthma.
5. Amphetamine salt combination tablet is the generic name for Adderall. It is in a class of drugs called Stimulants and Related Agents. It is prescription-only Schedule II controlled substance. This category of drugs has strong potential for abuse or addiction, but they do have limited legitimate medical uses.
6. The FDA has only approved Adderall for (1) treatment of Attention Deficit Disorders (ADD), or (2) various forms of narcolepsy.

DISCUSSION

Medically necessary prescription drugs can be an MA-covered service, and many are subject to prior authorization. Wis. Admin. Code §DHS 107.10(1),(2)(d). Adderall is subject to prior authorization, because the Division has determined that it entails utilization problems for the MA program.

State code only allows for MA coverage of a drug if it is medically necessary and appropriate for a given condition. Wis. Admin. Code §DHS 107.02(3)(e). A drug is not medically necessary or appropriate if its use for a given condition is experimental in nature. *Id.*, §DHS 107.03(4). A treatment is "experimental in nature" if it is not "a proven and effective treatment for which it is intended or used. ... [The Department looks at] the current and historical judgment of the medical community as evidenced by medical research, studies, journal or treatises; *Id.*, §107.035.

The Department has determined that there are only two sets of patients for whom use of Adderall is appropriate: (1) treatment of Attention Deficit Disorders (ADD), or (2) various forms of narcolepsy. The Department's policy determination relied upon the U.S. Food and Drug Administration's (FDA) determination that the only two indications for use of Adderall are those two above (plus limited use in some weight loss programs).

The Department has shared this determination in a policy document, *ForwardHealth Update*, 2013-46 (September, 2013), and in the Division's online MA pharmacy policy handbook at the ForwardHealth portal:

<https://www.forwardhealth.wi.gov/WIPortal/Tab/42/icscontent/provider/medicaid/pharmacy/resources.htm#page#> (viewed May 2015). At that website, the link to "diagnosis restricted drugs," should be selected, leading to the ForwardHealth Pharmacy Data Table submitted in the Department's May 20, 2015 letter. Exhibit 1. When amphetamine salt is selected on the table, it lists the restriction to persons with a diagnosis of ADD or narcolepsy. This persuades me that the requested amphetamine salt tablets are not a covered prescription drug in the Wisconsin Medicaid index. State code gives the Department the right to exclude drugs from coverage through its selections into the Medicaid index, so there is no recourse that I can offer the petitioner here.

The petitioner concedes that he does not suffer from ADD, narcolepsy, or obesity (his Body Mass Index is 25). The petitioner earnestly testified to how his past use of Adderall helped him function better during the daytime. However, his physician has offered no medical research documentation to support the appropriateness of Adderall for a person with his diagnosis. Therefore, I find the Division's position in this case to be reasonable and consistent with state code.

CONCLUSIONS OF LAW

1. MA coverage of amphetamine salt combination tablets is not permissible, medically necessary or appropriate for treatment of a patient with the petitioner's diagnoses.

THEREFORE, it is**ORDERED**

That the petition is 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 27th day of May, 2015

\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 May 27, 2015.

Division of Health Care Access and Accountability