

STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVENUE
HARTFORD, CT 06105-3725

██████████ 2017
Signature confirmation

Client # ██████████
Request # 810993

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2016, the Department of Social Services (the "Department") issued ██████████ ██████████ ("the Appellant") a Notice of Action denying prior authorization of Opana ER 10 mg tablets.

On ██████████ 2017, the Appellant requested an administrative hearing to contest the Department's decision.

On ██████████ ██████████ 2017 the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for ██████████ 2017.

On ██████████ 2017, in accordance with sections 17b-60, 17-61 and 4-176e to 4-189 inclusive, of the Connecticut General Statutes, OLCRAH held an administrative hearing. The following individuals were present at the hearing:

██████████, Appellant
Jason Gott, Pharmacy Consultant,
Meochie Rhodes, Fair Hearing Liaison, DSS, Waterbury Regional Office
Maureen Foley-Roy, Hearing Officer

The hearing record remained open for the submission of additional evidence. On ██████████ 2017, the record closed.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to deny the Appellant's medical provider's request for prior authorization of Opana ER 10 mg tablets was correct.

FINDINGS OF FACT

1. The Appellant's diagnoses include but are not limited to: HTN, chronic pain syndrome, other intervertebral disc placement, thoracic region, herniated lumbar disc and lower back pain. (Exhibit 2: Medical information submitted with prior authorization form for Opana ER)
2. On [REDACTED] 2016, the Appellant's provider prescribed the immediate release Opana to be taken every 12 hours. (Exhibit 11: prescription and Department representative's testimony)
3. The Appellant had a "sense of normalcy" for the first time when he was taking the Opana immediate release every twelve hours. (Appellant's testimony)
4. The Appellant has never taken the long lasting extended release opioids. (Exhibit A: Appellant's statement)
5. On [REDACTED] 2016, one of the Appellant's medical providers signed a prior authorization request for the medication Opana ER ("extended release") 10 mg. (Exhibit 1: Prior authorization form for Opana ER signed [REDACTED] 2016)
6. Opana ER is an opioid that is an opioid agonist indicated for the relief of moderate to severe acute and chronic pain where an opioid analgesic is appropriate. The prescribing information contains a warning that there is abuse potential for Opana ER. (Exhibit 10b: Package insert for Opana ER)
7. Clinical studies show that the long acting opioids are more highly addictive and have a higher abuse potential than the immediate release drugs. (Department's representative's testimony)
8. The extended release and immediate release opioids provide the same pain relief but the immediate release is not as long lasting and does not maintain consistent levels of relief. (Department representative's testimony)
9. The prior authorization form indicated that the Appellant was over 12 years of age, was not under the care of an oncologist or pain specialist who was experienced in the use of Schedule II opioids to treat cancer,

- needed an ongoing, continuous course of therapy and was not free from a presented list of contraindications which included hypersensitivity to opiates, hypoxia/hypercarbia, severe asthma or chronic obstructive pulmonary disease and asthma. (Exhibit 1)
10. The Appellant's urine drug screens have been consistent with medication prescribed and he is a good patient at the pain management clinic. (Appellant's exhibit B: Letter from [REDACTED] clinic dated [REDACTED] 2017)
 11. The Appellant experiences constipation as a side effect of the opioid medication (Appellant's Exhibit C: Letter from APRN at pain management clinic)
 12. On [REDACTED] 2016, the Department conducted a review of the Appellant's prescriptions paid for by Medicaid from [REDACTED] 2016, through [REDACTED] 2016 and found that Medicaid had not paid for any long acting sustained release opioid medications for the Appellant. (Exhibit 3: Claim Search from [REDACTED] 2016)
 13. On [REDACTED] 2016, the Department sent the Appellant a notice advising that prior authorization of the Opana ER 10 mg tablets had been denied because that drug was not appropriate for his condition and not medically necessary. (Exhibit 7 [D-1]: Notification of Denial sent [REDACTED] 2016)
 14. On [REDACTED] 2017, the Department contacted the Appellant's medical provider and requested a copy of the Prescription Monitoring Program ("PMP) report for the Appellant. This report would provide information on the Appellant's entire controlled drug prescription usage, not just ones paid under Medicaid claims. (Department's summary)
 15. On [REDACTED] 2017, the Department's medical director once again requested the Appellant's PMP report from the Appellant's provider. (Department's summary)
 16. The Appellant's medical provider did not provide a copy of the PMP report for the Department nor any additional evidence regarding the medical necessity of the extended release Opana for the Appellant. (Department representative's testimony)

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes authorizes the Commissioner of Social Services to administer the Medicaid program.

2. For the purposes of the administration of the medical assistance programs by the Department, “medically necessary” and “medical necessity” mean those health services required to prevent, identify, diagnose, treat, rehabilitate or ameliorate an individual’s medical condition, including mental illness, or its effects , in order to attain or maintain the individual’s achievable health and independent functioning provided such services are: (1) consistent with generally-accepted standards of medical practice that are defined as standards that are based on (A) credible scientific evidence published in peer-reviewed medical literature that is generally recognized by the relevant medical community, (B) recommendations of a physician-specialty society, (C) the views of physicians practicing in relevant clinical areas, and (D) any other relevant factors; (2) clinically appropriate in terms of type, frequency, timing, site, extent and duration and considered effective for the individual’s illness, injury or disease; (3) not primarily for the convenience of the individual, the individual’s health care provider or other health care providers; (4) not more costly than an alternative service or sequence of services at least as likely to produce equivalent therapeutic or diagnostic results as to the diagnosis or treatment of the individual’s illness, injury or disease; and (5) based on an assessment of the individual and his or her medical condition. [Conn. Gen. Stat. § 17b-259b (a)]
3. The Department was correct when it denied prior authorization for the long lasting opioids for the Appellant because it is not clinically appropriate in terms of type and frequency and therefore not medically necessary. The immediate release drugs, which do not have the risks associated with the extended release types, have been proven effective for the Appellant’s condition. There was no evidence presented from the Appellant or his physician that the extended release was medically necessary for his condition.

DISCUSSION

The question before me is not whether Opana is the appropriate medication to treat the Appellant’s medical condition but whether the Opana ER (Extended Release) is medically necessary to treat the Appellant’s medical condition. The Appellant testified that he has taken the long lasting opiates in the past and that it is a more effective way to administer his pain medication. He claimed to have a “sense of normalcy” when taking the Opana every twelve hours. However, it turns out that he was not taking the extended release at that time but experienced such a level of relief with the immediate release taken every twelve hours. The Department’s representative’s testimony regarding the danger of the long lasting opioids was credible. The hearing record was held open to allow the Appellant’s provider to submit a statement as to why the extended release

medication was medically necessary in the Appellant's case but there was no further evidence received. The totality of the evidence and testimony indicates that the immediate release opioids are effective to treat the Appellant's conditions without the risks of the extended release types.

DECISION

The Appellant's appeal is **DENIED**.

Maureen Foley-Roy
Maureen Foley-Roy
Hearing Officer

Pc: Herman Kranc, Manager, Medical Care Administration, DSS, C.O.
Jason Gott, Medical Care Administration, DSS, CO
Robert Zavoski, M.D, Medical Care Administration, DSS, C.O.

RIGHT TO REQUEST RECONSIDERATION

The appellant has the right to file a written reconsideration request within **15** days of the mailing date of the decision on the grounds there was an error of fact or law, new evidence has been discovered or other good cause exists. If the request for reconsideration is granted, the appellant will be notified within 25 days of the request date. No response within 25 days means that the request for reconsideration has been denied. The right to request a reconsideration is based on §4-181a (a) of the Connecticut General Statutes.

Reconsideration requests should include specific grounds for the request: for example, indicate what error of fact or law, what new evidence, or what other good cause exists.

Reconsideration requests should be sent to: Department of Social Services, Director, Office of Administrative Hearings and Appeals, 55 Farmington Avenue, Hartford, CT 06105.

RIGHT TO APPEAL

The appellant has the right to appeal this decision to Superior Court within 45 days of the mailing of this decision, or 45 days after the agency denies a petition for reconsideration of this decision, provided that the petition for reconsideration was filed timely with the Department. The right to appeal is based on §4-183 of the Connecticut General Statutes. To appeal, a petition must be filed at Superior Court. A copy of the petition must be served upon the Office of the Attorney General, 55 Elm Street, Hartford, CT 06106 or the Commissioner of the Department of Social Services, 55 Farmington Avenue Hartford, CT 06105. A copy of the petition must also be served on all parties to the hearing.

The 45 day appeal period may be extended in certain instances if there is good cause. The extension request must be filed with the Commissioner of the Department of Social Services in writing no later than 90 days from the mailing of the decision. Good cause circumstances are evaluated by the Commissioner or the Commissioner's designee in accordance with §17b-61 of the Connecticut General Statutes. The Agency's decision to grant an extension is final and is not subject to review or appeal.

The appeal should be filed with the clerk of the Superior Court in the Judicial District of New Britain or the Judicial District in which the appellant resides.