BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS ON REFERRAL BY THE COMMISSIONER OF HEALTH AND SOCIAL SERVICES

In the Matter of	)	
	)	OAH No. 18-0363-MDX
E M	)	Agency No.
	)	

DECISION[1]

I. Introduction

E M is a Medicaid recipient. Ms. M's physician requested that the Medicaid program provide her with Liothyronine Sodium in its pure powder form. The Division of Health Care Services (Division) denied the request. Ms. M requested a hearing to challenge the denial.

Ms. M's hearing was held on April 27, 2018. Ms. M represented herself. N O, Pharm.D., a licensed pharmacist who is the staff pharmacist at Pharmacy A, testified on her behalf. Laura Baldwin, a Medical Assistance Administrator with the Division, represented the Division. Charles Semling, Pharm.D., a licensed pharmacist employed by the Division, testified on the Division's behalf.

Liothyronine Sodium powder is not a coverable prescription drug, as defined by the Medicaid program. Consequently, the Medicaid program will not pay for it. The Division's decision denying prior authorization is affirmed.

II. Facts

The following facts were established by a preponderance of the evidence.

Ms. M has hypothyroidism for which she requires medication. She cannot take some commercially available medications such as Armour thyroid due to religious dietary issues. She has also tried to take commercially available Liothyronine tablets for her hypothyroidism but had an adverse reaction to those due to some of the ingredients contained in the tablets. She has successfully taken capsules which were compounded from pure Liothyronine Sodium powder without any adverse reactions. That compounded capsules did not contain any drugs other than Liothyronine Sodium powder.[2]

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[1] This revised decision has been issued pursuant to 2 AAC 64.350, to correct a manifest typographical error on page 2.

[2] Ms. M's testimony; Mr. O's testimony; Ex. E, pp. 4 – 5.

On or about March 1, 2018, Ms. M's medical provider requested prior authorization from the Medicaid program for pure Liothyronine Sodium powder.[3] That request was denied.[4] The reasoning behind the denial stated in the Division's denial letter is that the "guidelines say that the requested medication should not usually be used by patients of your age."[5] However, as found in Division emails and further explained by Mr. Semling, the Division's pharmacist, the ultimate reason for denial was that Liothyronine Sodium powder is not a medication covered by the Medicaid program.[6] It is undisputed that Liothyronine Sodium powder does not have a national drug code (NDC) and is not electronically listed with the federal Food and Drug Administration (FDA).[7]

III. Discussion

The Alaska Medicaid program contains a number of restrictions on what drugs it will or will not cover. One of those requirements is that a covered outpatient drug must have, in addition to other requirements, an NDC number and must be listed electronically with the FDA.[8] In the case of a compounded prescription, there has be at least one covered outpatient drug in the prescription.[9] If a drug does not meet these requirements, the Medicaid program will not pay for that drug.[10]

In this case, as explained by Mr. O, the Liothyronine Sodium pure powder is used to compound a capsule for Ms. M. It is undisputed that the Liothyronine Sodium powder does not have an NDC and it is not electronically listed with the FDA. As a result, the powder itself is not a drug that the Medicaid program will pay for. The capsules compounded for Ms. M only contain the powder – they do not contain any other drugs which are covered by the Medicaid program. Because the capsules do not contain any Medicaid covered drugs – they cannot be covered, regardless of the medical necessity for them. Even though the evidence shows that the capsules compounded from the pure Liothyronine Sodium powder work well for Ms. M when

3 Ex., pp. 4 -5.
4 Ex. D.
5 Ex. D, p. 1.
6 Ex. E, pp. 1 – 3; Mr. Semling's testimony.
7 Mr. Semling's testimony; Mr. O's testimony.
8 7 AAC 120.110(b)(2) and (3).
9 7 AAC 120.110(a)(2).
10 7 AAC 120.112(3).

other options have failed, the Medicaid program's regulatory requirements do not allow coverage of this drug.[11]

IV. Conclusion

The Division's decision to deny Ms. M's prior authorization request for Liothyronine Sodium powder is affirmed.

DATED this 31st day of May, 2018.

Signed
Lawrence A. Pederson
Administrative Law Judge

Adoption

The undersigned, by delegation from the Commissioner of Health and Social Services, adopts this Decision under the authority of AS 44.64.060(e)(1) as the final administrative determination in this matter.

Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with Alaska R. App. P. 602(a)(2) within 30 days after the date of this decision.

DATED this 20th day of June, 2018.

By: *Signed*
Name: Erin E. Shine
Title: Special Assistant, DHSS

[This document has been modified to conform to the technical standards for publication. Names may have been changed to protect privacy.]

[11] The Alaska Medicaid regulations used to contain an undue hardship exception provision. However, that regulation, 7 AAC 43.080(a), was repealed in 2004 (Register 170).