

Re: KY Goods and Services

1 message

John Fouts <fouts.john@gmail.com>

Thu, Oct 17, 2024 at 2:11 PM

To: Sibal Khakiyeva <sibal.khakiyeva@accesscasemanagement.com>

Sibal,

Medicaid won't even cover items that are ON the formulary sometimes that are prescribed by doctors IN Kentucky that HAVE Medicaid Payor IDs....the state is not allowed to violate Federal law....federal law supersedes state law....

A good example is Olopatadine 2%. This was prescribed by Dr. Kumar at Kumar Eye Institute (or) by Dr. A. Mueller at Bennett and Bloom Eye Care Center. Both places have Medicaid Payor IDs.....I was eligible for Medicaid (of course) when the prescription was filled.

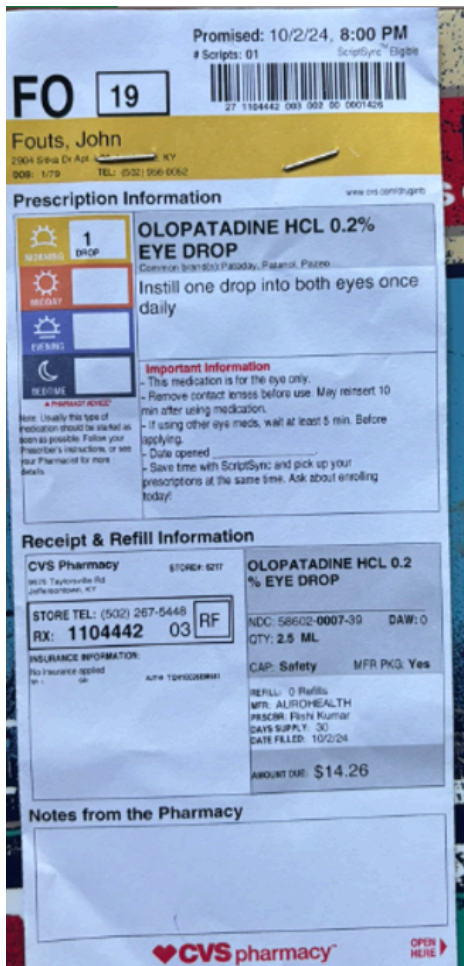
Medicaid lists this as a covered medication on the medicaid formulary, yet I had to pay as if I had no insurance anyway.

Medicaid refuses to reimburse, and DCBS/CHFS refuses to count the cost of the prescribed medication as an allowable medical expense deduction for SNAP calculation even though they are required to legally by Federal law....there are a handful of federal violations at the state level in those 2 sentences alone! I have hundreds to thousands of pages of evidence of mistreatment by the state of me....

See this page which shows Olopatadine 2% drops are covered....

PDL DRUG CATEGORY	PREFERRED	PREFERRED WITH PA	NON-PREFERRED
	Neo-Polycin Hydrocortisone Ointment Tobradex Suspension Tobradex Ointment Tobramycin/Dexamethasone Suspension		Zylet Suspension
OPHTHALMICS, ANTIHISTAMINES	Olopatadine Drops		Azelastine Drops Bepotastine Besilate Drops Bepreve Drops Epinastine Drops Zerviate Drops
OPHTHALMICS, ANTI-INFLAMMATORY STEROIDS	Dexamethasone Sodium Phosphate Drops Durezol Drops Fluorometholone Suspension Prednisolone Acetate Suspension Prednisolone Sodium Phosphate Drops		Alex Suspension Difluprednate Drops Flarex Suspension Fml Suspension Fml Forte Suspension Invellys Suspension Lotemax Gel Lotemax Suspension Lotemax Ointment Lotemax SM Gel Loteprednol Etaborate Gel Loteprednol Etaborate Suspension Maxidex Suspension Pred Forte Suspension Pred Mild Suspension Zigan Gel
OPHTHALMICS, ANTIVIRALS	Trifluridine Drops		
OPHTHALMICS, BETA BLOCKERS	Levobunolol Drops Timolol Maleate Drops Timolol Maleate Gel-Solution		Betaxolol Drops Betimol Drops Betoptic S Suspension Carteolol Drops Istalol Drop Daily Timolol Maleate Drop Daily Timolol Maleate PF Drops Timoptic Drops Timoptic Ocudose Drops Timoptic/Xa Soft/Gel
OPHTHALMICS, CARBONIC ANHYDRASE INHIBITORS	Dorzolamide Drops		Azopt Suspension Brinzolamide Suspension
OPHTHALMICS, COMBINATIONS FOR GLAUCOMA	Combigan Drops Dorzolamide/Timolol Drops Simbrinza Suspension		Brimonidine Tartrate/Timolol Drops Cosopt Drops Cosopt PF Drops Dorzolamide/Timolol PF Drops
OPHTHALMICS			Phospholine Iodide Drops

And then see this showing that I had to pay out of pocket....



So no....Medicaid refuses to honor things that should be covered quite often.....

But thank you for pointing out things that 'should' happen, but don't...

I know this is beyond your control - I am simply illustrating to you the discrimination I am experiencing and failure of KY to follow state and federal law ongoing....this is one example of many different things that have been occurring....

Thanks

On Thu, Oct 17, 2024 at 9:58 AM Sibal Khakiyeva <sibal.khakiyeva@accesscasemanagement.com> wrote:

Good Morning John,

I want to start by stating that you absolutely have the right to challenge any policy that you deem to be unjust.

Case Managers do not set the HCB Waiver regulations, we follow the limitations that are already set by the state. So, putting a cap on goods and services at \$3500 through the Medicaid HCB Waiver is not a decision we made at Access Care Case Management. I do want to remind you that outside the HCB Waiver, traditional Medicaid would be able to cover goods and services with a medical prescription. You are welcome to challenge this with the state with the reasons you have provided.

Best Regards,



Sibal Khakiyeva

Case Manager

Access Care ADHC

Email: sibal.khakiyeva@accesscasemanagement.com

Cell: (813)679-3004

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From: John Fouts <fouts.john@gmail.com>
Sent: Wednesday, October 16, 2024 4:24 PM
To: Sibal Khakiyeva <sibal.khakiyeva@accesscasemanagement.com>
Subject: Re: KY Goods and Services

Sibal,

Thanks for sending that - but this is what 'FEDERAL' Medicaid law says:

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"Is a state allowed to cap cost for a Medicaid year for a participant on a Home and community based waiver 1915c?"

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No, a state is not allowed to impose a hard cap on the total cost of services provided to an individual under a 1915(c) Home and Community-Based Services (HCBS) waiver.

According to federal law, the 1915(c) waivers must ensure that the state provides services that are necessary to prevent institutionalization. This means the state must provide sufficient services to meet the needs of the participant as specified in their person-centered care plan.

The only exception is that a state may set individual cost limits if those limits do not result in the denial of necessary services.

For instance, while a state may impose guidelines or review costs to ensure cost-effectiveness, the total cap must not be arbitrary or prevent access to medically necessary services.

If you are experiencing a cap that restricts your access to necessary services, this is a direct violation of Federal Medicaid law, and you are entitled to pursue an appeal or grievance with your state's Medicaid agency

or a legal remedy.

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What federal Medicaid law prohibits it?

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The prohibition against arbitrary cost caps in Medicaid's Home and Community-Based Services (HCBS) waiver programs, including the 1915(c) waiver, stems from both Federal Statutes and Federal Regulations.

1. **Social Security Act, Section 1915(c)**: This section establishes the authority for states to provide HCBS as an alternative to institutional care. It requires that services under the waiver be **cost-effective** but does not allow states to deny medically necessary services or impose arbitrary cost limits that would undermine a participant's ability to remain in the community.
2. **42 CFR § 441.302(a)**: This regulation requires that waivers ensure "adequate and reasonable provider standards" and must not restrict or deny needed services based solely on cost. It ensures the waiver services are individualized, based on medical necessity, and part of a person-centered care plan.
3. **Americans with Disabilities Act (ADA) and the Olmstead decision**: The **ADA**, under Title II, **requires that people with disabilities receive services in the most integrated setting appropriate to their needs**. The **Olmstead v. L.C.** decision (1999) further solidified this, stating that individuals with disabilities have the right to live in the community when appropriate, and states cannot limit this by underfunding waiver services or setting arbitrary cost caps.

Thus, arbitrary cost limits that restrict access to necessary services could violate **Section 1915(c) of the Social Security Act**, federal regulations under **42 CFR § 441**, and also the **ADA** and the **Olmstead** decision.

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So you know - if I am ever denied necessary services that are related to the **illegal** cap that Kentucky has set, I will be challenging it legally in a court of federal law.

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John R. Fouts

On Wed, Oct 16, 2024 at 2:46 PM Sibal Khakiyeva <sibal.khakiyeva@accesscasemanagement.com> wrote:

Please see attached file explaining HCB Waiver's \$3500 per year policy.

Thanks,



Sibal Khakiyeva

Case Manager

Access Care ADHC

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