

**BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS  
STATE OF GEORGIA**

<p><b>Petitioner,</b></p> <p>v.</p> <p><b>DEPARTMENT OF COMMUNITY HEALTH,</b></p> <p><b>Respondent.</b></p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p><b>DOCKET NO. OSAH-DCH-PLIN- -OAKLEY</b></p> <p><b>Agency No. R13-383</b></p>
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SEP 17 2013

*K. Westray*  
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Kevin Westray, Legal Assistant

**INITIAL DECISION**

A hearing was held in this matter on September 16, 2013, pursuant to the Petitioner’s appeal of the Respondent’s determination to place him in the Recipient Pharmacy Lock-In Program. The Petitioner was present and proceeded *pro se*. The Respondent was represented by Elizabeth Brooks, Esq.

1.

On May 8, 2013, the Respondent notified the Petitioner in writing that he had been placed in the Recipient Pharmacy Lock-In Program. Exhibit R-2.

2.

The Respondent’s review of the Petitioner’s Medicaid history for the period of March 1, 2012, through March 31, 2013 (the “Review Period”) was precipitated by a call from a physician’s office reporting a history of the Petitioner’s opioid use. Testimony of Ms. Hancock.

3.

The Respondent reviewed the medications obtained by the Petitioner during the Review Period and determined the following:

- The Petitioner received medications from four (4) pharmacies for a total of one hundred and sixty-three (163) prescriptions.
- Twelve (12%) percent of the Petitioner’s prescriptions were written for drugs of abuse.
- The Petitioner was seen by fourteen (14) physicians.
- The Petitioner obtained twenty (20) prescriptions for drugs of abuse including Chlorzoxazone (4 prescriptions for 240 tablets), Cyclobenzaprine (11 prescriptions

for a total of 690 tablets), Hydrocodone containing products (3 prescriptions for a total of 170 tablets), Oxycodone containing products (1 prescription for a total of 30 tablets) and Tramadol (1 prescription for a total of 30 tablets).

Testimony of Ms. Hancock; Exhibit R-3.

4.

The Petitioner's recorded diagnoses during the Review Period include Cervical Spondylosis and Rotator Cuff Syndrome. The Petitioner's diagnoses do not justify the amounts and continuing use of the drugs of abuse prescribed during the Review Period. Testimony of Ms. Hancock; Exhibit R-3. The Petitioner did not dispute the accuracy of the Respondent's conclusion. Testimony of Petitioner.

5.

The Petitioner's prescription record for the Review Period contains prescriptions which were filled in overlapping periods of time for the same medication prescribed by different physicians. Testimony of Ms. Hancock; Exhibit R-4.

6.

The Petitioner's prescription record for the Review Period contains evidence of four (4) criteria which are utilized by the Respondent to determine a recipient's appropriateness for the Pharmacy Lock-In Program, as follows:

- The Petitioner's drug therapy does not correlate with either his primary or his secondary diagnosis,
- The initial complaint to the Respondent included a provider's suspicion of his drug abuse,
- The number of prescriptions for controlled substances filled by the Petitioner exceeded ten (10%) percent of the total prescriptions filled, and
- The Petitioner received duplicate drug therapy from different physicians.

Testimony of Ms. Hancock. The Petitioner did not dispute the accuracy of the Respondent's determination. Testimony of Petitioner.

7.

The Petitioner contends that the Pharmacy Lock-In Program constitutes an inconvenience. Further, the Petitioner contends that he no longer takes certain of the drugs contained on his prescription record for the Review Period. Testimony of Petitioner. There is some, unpersuasive evidence in the record that the Petitioner has not been observed to have abused drugs. Testimony of Ms. Donkin.

Conclusions of Law

1.

The Respondent carried its burden of proof in this matter. Ga. Comp. R. & Regs. r. 616-1-2-.07(1)(c).

2.

Congruent with federal regulations, the Respondent has determined to place restrictions on recipients who are determined to be abusing the Medicaid Pharmacy Benefit. Section 606, Part II, Policies and Procedures for Pharmacy Services.

3.

There is abundant credible evidence to support the Respondent's determination to place the Petitioner on the Recipient Pharmacy Lock-In Program in accordance with the applicable criteria. Section 606.1, Part II, Policies and Procedures for Pharmacy Services.

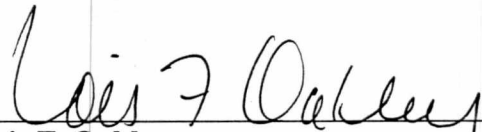
4.

The Office of State Administrative Hearings does not have jurisdiction to adjudicate the Petitioner's contentions relating to the alleged inequitable nature of the Respondent's determination. See O.C.G.A. § 50-13-40, *et. seq.*

Decision

For all the above and foregoing reasons, the Respondent's determination is **AFFIRMED**, and the Petitioner's appeal is **DISMISSED**.

This 16<sup>th</sup> day of September, 2013.



**Lois F. Oakley**  
**Administrative Law Judge**