

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 20,066
)
Appeal of)

INTRODUCTION

The petitioner appeals a decision by the Office of Vermont Health Access (OVHA) not to reimburse her for her purchase of the prescription drug Acular under the VScript Expanded program. The issue is whether Acular is a covered drug under that program.

FINDINGS OF FACT

1. The petitioner is enrolled in the Department's VScript Expanded program, which covers individuals with incomes between 175 percent and 225 percent of federal poverty levels.

2. The petitioner suffers from chronic eye problems. In December 2005 she was prescribed Acular, a prescription medication to control swelling in the eyes. It appears that Acular is unique in its formulation and has no generic equivalent.

3. When the petitioner went to fill her prescription her pharmacist informed her that it was not covered by the

VScript Expanded program. The petitioner purchased the medication with her own funds and filed this appeal to seek reimbursement.

4. At a hearing, held on April 24, 2006, the petitioner also expressed concern whether a newly prescribed medication, Cosopt, would also be covered. The Department has informed the petitioner and the Board that Acular is not covered under VScript because the manufacturer of that drug does not participate in Vermont's "rebate agreement" program through OVHA (see *infra*). However, the Department indicated that Cosopt *is* a covered item under that program.

ORDER

The Department's decision is affirmed.

REASONS

There is no dispute in this matter that Acular is considered a "maintenance drug" in accordance with the Department's VScript regulations. W.A.M. § 3202.1. That regulation specifically provides that coverage for such drugs for individuals who (like the petitioner) only qualify for VScript Expanded (as opposed to "regular" VScript, which is available to persons with incomes lower than the petitioner's) "is limited to drugs dispensed by participating

pharmacies from manufacturers that as a condition of participation in this program have signed a rebate agreement with the Office of Vermont Health Access". The Department represents, and the petitioner does not dispute, that the manufacturer of Acular has not entered into such an agreement with OVHA.

Fortunately, it appears that the petitioner only incurred a one-time out-of-pocket expense for this drug, and that she is now being switched to a medication that is covered under VScript Expanded. However, inasmuch as the Department's decision in this matter was in accord with its regulations, the Board is bound to affirm it. 3 V.S.A. § 3091(d), Fair Hearing No. 17.

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