

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,
and THE STATE OF WISCONSIN,
ex rel. DR. TOBY TYLER WATSON,

Plaintiffs,

v.

Case No. 11-CV-236

JENNIFER KING VASSEL,

Defendant.

AFFIDAVIT OF KIMBERLY SMITHERS

STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

KIMBERLY SMITHERS, being duly sworn under oath, deposes and states as follows:

1. I am employed by the state Department of Health Services as the Pharmacy and Quality Section Chief in the Bureau of Benefits Management, Division of Health Care Access and Accountability.
2. My job is to oversee the operation of the state Medicaid pharmacy benefits. I am a manager, and not involved in any policy decisions.
3. I am not a physician or pharmacist.
4. I cannot provide any opinion about what is the State's policy to pay for psychotropic medications. The State does not interpret the regulations, but rather applies them.
5. I cannot provide any opinion about whether a prescription is medically indicated for

a patient. I cannot testify about any use of a prescription medication. It is beyond my competence to testify about how a prescription medication is used.

6. A state board's review of medical literature is beyond my knowledge.

7. I cannot determine, and do not determine in my position, whether any claim is fraudulent.


8. If a claim is filed by a pharmacy for Medicaid reimbursement of a Medicaid-covered outpatient drug, and all prerequisites for Medicaid reimbursement are met, then the State will pay it. The approval to pay is based on the information submitted by the pharmacy.

9. The prescribing physician does not have anything to do with submitting a claim for Medicaid reimbursement of a prescription drug.

10. It is up to the pharmacy to determine whether the claim should be submitted, and the Medicaid Management Information System (MMIS) confirms whether it is covered and payable.

11. The system goes through algorithms for decision making. This includes information such as is it a valid National Drug Code; whether Medicaid coverage of the drug is subject to a diagnosis restriction; or whether Medicaid coverage of the drug requires prior authorization.

12. Prior authorization is an electronic or written authorization issued by Medicaid to a provider prior to the provision of a service. Prior authorization is a process within a State's MMIS that is permitted under federal Medicaid law.


Kimberly Smithers

Subscribed and sworn to before me
this 25th day of November, 2013.

K. D. Bailey Kevin D. Bailey
Notary Public, State of Wisconsin
My Commission expires: is permanent.

