

## STATE HEARING DECISION

ODHS 4005 (Rev. 9/94)

County <b>PERRY</b>	District Hearings Section <b>COLUMBUS</b>	Assistance Group Name		Assistance Group Number
Place of Hearing <b>PERRY CDHS</b>	Initial Hearing Date <b>11/23/2004</b>	Rescheduled Postponed to <b>01/06/2005</b>	Rescheduled Postponed to	Rescheduled Postponed to

Appellant/Representative	Appellant Representation
	Local Agency Representation <b>Deb Moore, Perry CDJFS; Stephen Mueller, First Health Services Account Manager</b>

Date Notice Mailed	Date Received by Local Agency	Date Received by ODHS <b>10/27/2004</b>	Date Appeal Summary Received <b>11/10/2004</b>	Date Scheduling Notice Mailed <b>12/23/2004</b>
Appeal Number(s)/Program(s) <b>1198660/MED</b>				

### Notice to Appellant

This is the state hearing decision in your case. All papers and materials introduced at the hearing or otherwise filed make up the hearing record. The hearing record will be maintained by the Ohio Department of Job and Family Services.

**If you believe this state hearing decision is wrong, you may request an administrative appeal by writing to: Ohio Department of Job and Family Services, Office of Legal Services, 30 East Broad Street, 31st Floor, Columbus, Ohio 43215-3414 or FAX (614) 728-9574.** Your request should state why you think the hearing decision is wrong. You can complete the appeal request form included with this decision. Your written request or appeal form must be received by the Office of Legal Services within 15 calendar days from the date this decision is issued. *(If the 15th day falls on a weekend or holiday, this deadline is extended to the next work day.)* During the 15-day administrative appeal period you, or your representative, may request a free copy of the hearing record and recording of the hearing by calling the Bureau of State Hearings at 1-866-635-3748 (select option 1 from main menu).

If you want information on free legal services but don't know the number of your local legal aid office, you can call the Ohio State Legal Services Association, toll free, at 1-800-589-5888, for the local number.

### ISSUE SECTION

#### Appeal Number 1198660 - Medicaid

By notice issued 8/12/04, First Health Services Corp., on behalf of the Ohio Department of Job and Family Services (ODJFS), denied prior authorization for the prescription drug Viagra®. The issue of the hearing is whether the denial of prior authorization for this drug was in accordance with program regulations.

After careful consideration of the evidence, testimony, and applicable policy, I find the denial of prior authorization to be in accordance with program regulations and recommend that the appeal be overruled.

### PROCEDURAL MATTERS

The request for a state hearing was received 10/27/04. The hearing was originally scheduled for 11/23/04. Per the Appellant's request, the hearing was rescheduled and conducted on 1/6/05. Participating and testifying under oath during the hearing were the Appellant, the Appellant's LPN, a representative from Perry

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Appeal(s) <b>OVERRULED 1198660</b>	Date Issued <b>01/07/2005</b>	Compliance
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**Distribution:** Original to appellant, one copy to local agency; one copy to district Hearing section; one copy to district office; two copies to State Hearings. *(Photocopy to appellant's authorized representative, if any, and to ODHS units as appropriate.)*

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CDJFS, and a representative from First Health Services (Agency). An Appeal Summary was received 11/10/04.

### **FINDINGS OF FACT**

1. The Appellant is a 63 year old male, in receipt of Medicaid for the disabled (MA D).
1. The Appellant suffers from erectile dysfunction (ED), hypertension, hepatitis C, depression, hypotestosteronism, and hypogonadism.
2. The Appellant's ED is caused by hypogonadism. Sildenafil, dispensed as Viagra®, has been effective in treatment of the ED.
3. The Appellant has not been prescribed, and does not take, medication for the condition of hypertension.
4. The Appellant has not had, or does not suffer from the following: radical prostatectomy, transurethral prostatectomy, pelvic surgery, pelvic irradiation, pelvic trauma, diabetes mellitus, spinal cord injury, or ED as a side-effect of a hypertensive agent.

### **CONCLUSIONS OF POLICY**

Prior approval of drugs not listed in Appendix A of Ohio Admin. Code § 5101:3-9-12 may be covered with prior authorization if medical necessity is documented, the drug is not excluded, and a drug listed in Appendix A of Ohio Admin. Code § 5101:3-9-12 cannot be used. Prior approval of such drugs must be obtained from ODJFS or ODJFS' contractor by the prescribing provider before the drug may be dispensed. Ohio Admin. Code § 5101:3-9-03 (2004)

The United States Code of Federal Regulations (CFR) (42 CFR § 456.703 (2003)) requires that states have in place a drug use review (DUR) program. Predetermined standards used in the DUR program must meet the following requirements: The source materials for their development must be consistent with peer-reviewed medical literature (that is, scientific, medical, and pharmaceutical publications) and the following compendia:

- (I) American Hospital Formulary Service Drug Information
- (II) United States Pharmacopeia-Drug Information
- (III) The DRUGDEX Information system
- (IV) American Medical Association Drug Evaluations
- (V) Peer-reviewed medical literature

Here, it was not disputed that the Appellant did not meet any of the specific indications for the dispensing of the prescription drug Viagra ®. The Appellant's ED is caused by the condition of hypogonadism, which is not included on the list of acceptable indications. I cannot find the denial of prior authorization to be in error.

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**HEARING OFFICER'S RECOMMENDATIONS**

Based on the record before me, I find that appeal number 1198660 should be overruled.

**FINAL ADMINISTRATIVE DECISION AND ORDER**

Finding the hearing officer's decision to be supported by policy and the evidence, I adopt the hearing officer's recommendations. Thus, appeal number 1198660 is overruled.

**APPENDIX**

Agency Exhibits

1 - Appeal Summary

Appellant's Exhibits

None

Date Issued: 01/07/2005