STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
FOR THE DEPARTMENT OF COMMUNITY HEALTH
P.O. Box 30763, Lansing, MI 48909
(877) 833-0870; Fax: (517) 334-9505

IN THE MATTER OF:

[redacted]

Appellant
_____/

Docket No. 2009-10076 ABW
Case No. [redacted]
Load No. [redacted]

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, and 42 CFR 431.200, et seq., following the Appellant's request for a hearing.

After due notice, a hearing was held on [redacted] [redacted] appeared as Authorized Representative for [redacted] (Appellant), who also appeared, but did not testify.

[redacted], represented [redacted], a County Health Plan (CHP), contracted with the Michigan Department of Community Health to administer benefits to the Appellant under the Adult Benefits Waiver program. Also appearing on behalf of the CHP were [redacted] and [redacted].

ISSUE

Did the CHP properly deny Appellant's request for a Loop Recorder Implant?

FINDINGS OF FACT

Based upon the competent, material and substantial evidence presented, I find, as material fact:

1. Appellant is enrolled in the Adult Benefit Waiver (ABW) program. Her benefits are administered through [redacted], a County Health Plan for purposes of administering Adult Benefits Waiver services and supports. The Appellant's medical diagnoses include asthma and recurrent Syncope. *(Exhibit 1; p. 10)*

2. On [redacted], the CHP received information that the Appellant had been referred to [redacted]. She treated with [redacted] on [redacted] The Recommendation and Plan of Treatment, quoted from the consultation note, is as follows: *"I discussed with patient in detail about her symptomatology. In view of patient's recurrent syncopal episodes and some cardiac arrhythmia, I would recommend an event monitor for the patient. Holter monitor will probably not pick up the abnormality as her symptoms are relatively infrequent. Patient will be scheduled for an event monitor for four weeks today. I will discontinue her Lopressor beta-blocker, which is probably making her asthma worsen as patient complained that she started taking these medications, her shortness of breath, asthma and palpitations are more frequent. I will try to obtain patient's cholesterol profile from the primary physician's office. Her baseline LV function is normal and initial cardiac workup is completed, consider patient for a stress test as an outpatient. Patient will follow up with me after the results of the event monitor available." (Exhibit 1; p.11)*

3. On [redacted], the Appellant requested coverage of a loop recorder implant. On [redacted], the CHP denied the requested equipment, because a "…holter monitor and/or external loop recorder has not been utilized to evaluate for arrhythmia." *(Exhibit 1; p. 5)*

4. On [redacted], the Appellant filed her request for hearing with the State Office of Administrative Hearings and Rules for the Department of Community Health.

CONCLUSIONS OF LAW

The Medical Assistance Program is established pursuant to Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). It is administered in accordance with state statute, the Social Welfare Act, the Administrative Code, and the State Plan under Title XIX of the Social Security Act Medical Assistance Program.

On January 16, 2004, the federal Department of Health and Human Services, Centers for Medicare and Medicaid Services, approved the Adult Benefit Waiver to permit the state to use state funds and funds authorized under Title XXI of the Social Security Act to provide coverage to uninsured adults who were not otherwise eligible for Medicaid or Medicare. The new program utilizes the Medicaid provider network and County-Administered Health Plans (CHPs) as managed care providers.

The Adult Benefits Waiver (ABW) provides health care benefits for Michigan's childless adult residents (age 18 through 64) with an annual income at or below 35 percent of the Federal Poverty Level (FPL).

Covered services and maximum co-payments for beneficiaries in this eligibility category are detailed in the following sections. Unless noted in Medicaid provider-specific chapters, service coverage and authorization requirements for the fee-for-service (FFS) beneficiaries enrolled in the ABW program mirror those required for Medicaid. Only those providers enrolled to provide

services through the Michigan Medicaid Program may provide services for FFS ABW beneficiaries.

The Michigan Department of Human Services (MDHS) may also refer to the ABW as the Adult Medical Program.

1.1 COUNTY-ADMINISTERED HEALTH PLANS

ABW beneficiaries enrolled in County-Administered Health Plans (CHPs) are subject to the requirements of the respective CHP. In those counties operating nonprofit CHPs, all covered services for ABW beneficiaries must be provided through the health plan. CHPs administering the ABW program are required to provide the services noted in the Coverage and Limitations Section of this chapter to ensure that benefits are consistent for all ABW beneficiaries across the FFS and CHP programs.

An up-to-date list of CHPs is maintained on the Michigan Department of Community Health (MDCH) website. (Refer to the Directory Appendix for website information.) CHPs may:

- Require that services be provided through their contracted provider network and may institute prior authorization (PA) requirements beyond those required for the FFS ABW program.
- Require beneficiaries to obtain certain services from the Local Health Departments (LHDs) or other community resources. When such referrals are made, the CHP is responsible for the beneficiary's share of the fee minus any applicable co-payments.

CHP providers rendering services to ABW beneficiaries enrolled in a CHP are not required to enroll as providers in the Medicaid program, but they must comply with all Medicaid provider requirements as detailed in this manual. This includes the prohibition on balance billing beneficiaries for the difference between the provider's charge and the CHP reimbursement.

Medicaid Provider Manual;
Adult Benefits Waiver;
Version Date: April 1, 2008; page 1

The Appellant is enrolled in the Respondent CHP. The CHP is permitted under its Grant Agreement with the Department to:

limit covered services to those which are medically necessary and appropriate, and which conform to professionally-accepted standards of care.

CHP Grant Agreement between the Michigan Department of Community Health and the CHP, Section II-F Services Covered by the CHP, page 20

The CHP Grant Agreement also provides that prior authorization may be denied for the following reasons:

1. Medical necessity has not been established.
2. Alternative medications have not been ruled out.
3. Evidence-based research and compendia do not support it.
4. The request is contraindicated or an inappropriate standard of care.
5. The request does not fall within the CHP medical review criteria/policy.
6. The requested documentation was not received by the CHP.

SECTION 2 – COVERAGE AND LIMITATIONS

The table below outlines beneficiary coverage under ABW. Special instructions for CHP beneficiaries are noted when applicable.

Service Coverage

Ambulance Limited to emergency ground ambulance transport to the hospital Emergency Department (ED).

Case Management Non-covered

Chiropractor Non-covered

Dental Non-covered, except for services of oral surgeons as covered under the current Medicaid physician benefit for the relief of pain or infection.

Emergency Department Covered per current Medicaid policy. For CHPs, PA may be required for non-emergency services provided in the emergency department.

Eyeglasses Non-covered

Family Planning Covered. Services may be provided through referral to local Title X designated Family Planning Program.

Hearing Aids Non-covered

Home Health Non-covered

Home Help (personal care) Non-covered

Hospice Non-covered

Inpatient Hospital *Non-covered (Emphasis supplied by ALJ)*

Lab & X-Ray Covered if ordered by an MD, DO, or NP for diagnostic and treatment purposes. PA may be required by the CHP.

Version Date: July 1, 2008
Medicaid Provider Manual; Adult Benefits Waiver
Page 4

The Appellant's request for a loop recorder implant is essentially a request for surgery, specifically, a non-covered service for ABW beneficiaries.

The CHP's denial is based on a determination that the Appellant failed to demonstrate medical necessity for the implant (e.g., failure to demonstrate use of an external loop recorder and/or Holter monitor. While this is an appropriate manner by which to deny an otherwise non-medically necessary service or procedure, the analysis in this case centers on whether the requested service is even covered. I conclude that, because a loop recorder implant is "implanted" into the body via surgical means, it is properly considered, "surgery". Surgery is not included in the above list of ABW-covered service.

DECISION AND ORDER

Based on the above findings of fact and conclusions of law, I decide that the CHP's denial of Appellant's request for a loop recorder implant is appropriate, as in accord with current policy and its contract with the Department.

IT IS THEREFORE ORDERED that:

The CHP's denial is AFFIRMED.

Stephen B. Goldstein
Administrative Law Judge
for Janet Olszewski, Director
Michigan Department of Community Health

[redacted]
Docket No. 2009-10076 ABW
Decision and Order

cc: [redacted]

Date Mailed: 3/19/2009

***** NOTICE *****

The State Office of Administrative Hearings and Rules for the Department of Community Health may order a rehearing on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. The State Office of Administrative Hearings and Rules for the Department of Community Health will not order a rehearing on the Department's motion where the final decision or rehearing cannot be implemented within 90 days of the filing of the original request. The Appellant may appeal the Decision and Order to Circuit Court within 30 days of the mailing date of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the mailing date of the rehearing decision.