STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
FOR THE DEPARTMENT OF COMMUNITY HEALTH
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(877) 833-0870; Fax: (517) 334-9505

IN THE MATTER OF:

[redacted],

Appellant
_____/

Docket No. 2009-14466 QHP
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.,* upon the Appellant's request for a hearing.

After due notice, a hearing was held on [redacted]. [redacted] (Appellant) appeared and testified on her own behalf. [redacted], General Counsel, represented [redacted], Inc. (the MHP). [redacted], Alternate OB/GYN Physician Reviewer for the MHP; and [redacted], RN, testified as witnesses for the MHP.

ISSUE

Did the Medicaid Health Plan (MHP) properly deny Appellant's request for the approval of a Laproscopic Supracervical Hysterectomy?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. Appellant is a Medicaid beneficiary enrolled in the MHP.

2. The MHP received a prior authorization request from Appellant's OB/GYN for the approval of Appellant's scheduled surgery, a Laproscopic Supracervical Hysterectomy.

3. On [redacted], the MHP's OB/GYN Advisor, [redacted], denied Appellant's request for the scheduled surgery on the basis that it did not meet the MHP's medical necessity criteria because there was no documentation to show that other medical conservative treatment was first attempted.

4. Appellant's OB/GYN called to speak with [redacted], but was referred to [redacted] since [redacted] was unavailable; and after speaking with [redacted], Appellant's OB/GYN agreed that it would be reasonable to try other conservative treatment to a hysterectomy, and if the conservative therapy does not work, then a hysterectomy would be recommended.

5. Appellant's OB/GYN determined that Appellant is not a candidate for an endometrial ablation because it will not control Appellant's pain, only her vaginal bleeding.

6. On [redacted], after receiving notice of the State Office of Administrative Hearings and Rules received Appellant's hearing request, protesting the denial of her hysterectomy.

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 May 30, 1997, the Department received approval from the Health Care Financing Administration, U.S. Department of Health and Human Services, allowing Michigan to restrict Medicaid beneficiaries' choice to obtain medical services only from specified Medicaid Health Plans.

The Respondent is one of those Medicaid Health Plans.

> The covered services that the Contractor has available for enrollees must include, at a minimum, the covered services listed below (List omitted by Administrative Law Judge). The Contractor may limit services to those which are medically necessary and appropriate, and which conform to professionally accepted standards of care. Contractors must operate consistent with all applicable Medicaid provider manuals and publications for coverages and limitations. If new services are added to the Michigan Medicaid Program,

> or if services are expanded, eliminated, or otherwise changed, the Contractor must implement the changes consistent with State direction in accordance with the provisions of Contract Section 1-Z.
>
> *Article II-G, Scope of Comprehensive Benefit Package. MDCH contract (Contract) with the Medicaid Health Plans, September 30, 2004.*

> The major components of the Contractor's utilization management plan must encompass, at a minimum, the following:
>
> - Written policies with review decision criteria and procedures that conform to managed health care industry standards and processes.
> - A formal utilization review committee directed by the Contractor's medical director to oversee the utilization review process.
> - Sufficient resources to regularly review the effectiveness of the utilization review process and to make changes to the process as needed.
> - An annual review and reporting of utilization review activities and outcomes/interventions from the review.
>
> The Contractor must establish and use a written prior approval policy and procedure for utilization management purposes. The Contractor may not use such policies and procedures to avoid providing medically necessary services within the coverages established under the Contract. The policy must ensure that the review criteria for authorization decisions are applied consistently and require that the reviewer consult with the requesting provider when appropriate. The policy must also require that utilization management decisions be made by a health care professional who has appropriate clinical expertise regarding the service under review.
>
> *Article II-P, Utilization Management, Contract, September 30, 2004.*

Appellant argues that she needs the requested surgery due to abnormal bleeding during her menstruation cycle and fibroid tumors. Appellant stated that she has a large tumor "12 centimeters (cm) and growing." Appellant stated further that she is tired of the pain and abnormal bleeding which prevents her from going to work.

The Medicaid Qualified Health Plan must cover services consistent with the scope of services covered by the Michigan Medicaid fee-for-service program. As stated above, the health plan may limit services to those which are **medically necessary** and appropriate, and which conform to professionally accepted standards of care. The MHP provided a copy of its Evidence of Coverage Guidelines which state that alternatives to a hysterectomy must be considered. Those alternatives or more conservative treatments include uterine artery embolization, endometrial resection or ablation, pharmacologic treatment, e.g., oral contraceptives. (ALJ I)

Appellant's OB/GYN spoke with the MHP's Alternate OB/GYN Physician Reviewer, [redacted], after the denial of the surgery and agreed that it would be reasonable to try more conservative treatment for Appellant's abnormal bleeding and pain. The MHP reported that it was told by an office manager from the office of Appellant's OG/GYN that Appellant refused hormone therapy because she got pregnant more than once while on birth control pills, and as a result, she has no confidence in hormone therapy. In addition, the MHP was told by Appellant's OG/GYN that Appellant was not a candidate for endometrial ablation because it will not help control Appellant's pain, only the vaginal bleeding. The MHP stated that Appellant saw her OB/GYN on [redacted], and was given the option of a uterine artery embolization, but she refused this option. Further, the MHP's witness, [redacted], testified credibly as an expert witness for the MHP. According to [redacted], he reviewed Appellant's medical documentation. [redacted] testified that Appellant's pelvic ultrasound done on [redacted], revealed a 12.5 cm uterus, but only a relatively small fibroid tumor which measured 2.5 cm. [redacted] testified that on [redacted], laboratory data revealed that Appellant's hemoglobin level was normal.

In this case, Appellant was unable to provide the necessary evidence to rebut the MHP's evidence that she does not meet the medical necessity criteria for the surgery she is requesting. Therefore, this Administrative Law Judge must uphold the denial.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the MHP properly denied Appellant's request for a Laproscopic Supracervical Hysterectomy .

IT IS THEREFORE ORDERED that:

The Medicaid Health Plan's decision is AFFIRMED.

Marya A. Nelson-Davis
Administrative Law Judge
for Janet Olszewski, Director
Michigan Department of Community Health

cc: [redacted]

Date Mailed: 6/9/2009

***** NOTICE *****

The State Office of Administrative Hearings and Rules 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 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 receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt of the rehearing decision.