

**STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
FOR THE DEPARTMENT OF COMMUNITY HEALTH**

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IN THE MATTER OF:

████████████████████,

Appellant

**Docket No. 2009-28863 QHP
Case No. ██████████**

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 ██████████. ██████████ appeared on his own behalf. ██████████, represented the Medicaid Health Plan (MHP), (MHP). ██████████; and ██████████, appeared as witnesses for the MHP.

ISSUE

Did the Medicaid Health Plan properly deny the Appellant prior authorization for Ritalin?

FINDINGS OF FACT

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

1. The Appellant is a Medicaid beneficiary.
2. Appellant was enrolled in the MHP ██████████ and continues to be enrolled.
3. On ██████████, the MHP received a request from ██████████ Appellant's sleep medicine doctor for prior authorization of Ritalin. (Exhibit 1, pp 11- 21). ██████████ Appellant's primary care physician (PCP), had referred Appellant to ██████████ for sleep disorder.

(Exhibit 1, p 12).

4. The request included sleep tests from ██████████, as well as reports from ██████████ regarding office visits in ██████████. (Exhibit 1, pp 11-21). ██████████ consistently diagnosed Appellant with Obstructive Sleep Apnea, insomnia, EDS, and obesity. (Exhibit 1, pp 12-15).
5. The MHP Medical Director and Director of Pharmacy reviewed the request. (Exhibit 1, p 25).
6. On ██████████, the MHP sent the Appellant and his PCP a denial notice for Ritalin. The reason for denial was stated as:

Ritalin Tablets (medication used for attention deficit hyperactivity disorder, narcolepsy and fatigue related to Multiple Sclerosis). ██████████ will require adequate documentation to support that there has been a valid Polysomography (sleep test) to support a diagnosis of Narcolepsy or fatigue related to Multiple Sclerosis prior. ██████████ will reconsider the request if the appropriate information is submitted. (Exhibit 1, pp 8-9).

7. Neither ██████████ nor the Appellant's PCP documented a diagnosis of attention deficit hyperactivity disorder, narcolepsy or fatigue related to Multiple Sclerosis.
8. On ██████████, the Department received Appellant's request for an administrative hearing. (Exhibit 2).

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 ALJ). 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. (Bold emphasis added by ALJ).

*Article II-G, Scope of Comprehensive Benefit Package.
MDCH contract (Contract) with the Medicaid Health Plans,
FY 2008.*

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

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professional who has appropriate clinical expertise regarding the service under review.

Article II-P, Utilization Management, Contract, FY 2008.

The DCH-MHP contract provisions allow prior approval procedures for utilization management purposes. As it says in the above Department-MHP contract language, a MHP can require prior authorization before covering a person's brand name medication such as Ritalin.

The MHP representative and MHP ██████████ explained that Ritalin is a covered benefit for documented diagnoses of attention deficit hyperactivity disorder, narcolepsy and fatigue related to Multiple Sclerosis. ██████████ added that a diagnosis of narcolepsy had to be substantiated by a polysomnograph.

MHP ██████████ testified that Appellant's medical documentation did not indicate any diagnosis of attention deficit hyperactivity disorder, narcolepsy and fatigue related to Multiple Sclerosis. ██████████ said Appellant's medical documents showed his diagnoses were Obstructive Sleep Apnea, insomnia, EDS, and obesity. (Exhibit 1, pp 12-15).

A MHP provided testimony and documentary evidence that its policy was consistent with Department Medicaid policy. (Exhibit 1, p 10, 22-24 and testimony).

In Medicaid beneficiary cases such as Appellant's, the burden is on the Appellant to prove by a preponderance of evidence that the MHP's action was not proper. The Appellant testified that his doctor wanted to give him Ritalin because he was depressed and sleeping during the day because he was tired. The Appellant produced no documentation at the time of hearing indicating he had received a polysomnograph showing narcolepsy.

The MHP provided sufficient evidence that its formulary and medication prior approval process is consistent with Medicaid policy and allowable under the DCH-MHP contract provisions. The Appellant did not provide a preponderance of evidence that the MHP improperly denied prior authorization for Ritalin. As such, the MHP properly denied prior approval of Ritalin.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law decides that the Medicaid Health Plan properly denied the Appellant prior authorization of Ritalin.

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IT IS THEREFORE ORDERED THAT:

The Medicaid Health Plan's decision is AFFIRMED.

Lisa K. Gigliotti
Administrative Law Judge
for Janet Olszewski, Director
Michigan Department of Community Health

cc:

[REDACTED]

Date Mailed: 10/2/2009

***** 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.