

**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. 2009-9008 PHR

Case No. ██████████

Load 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 ██████████. ██████████ (Appellant) appeared on his own behalf. ██████████ represented the Department's agent, ██████████.

ISSUE

Did the Department properly deny Appellant's prior authorization request for continuation of therapy on the product Suboxone?

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 ██████ year-old Medicaid beneficiary.
2. Appellant was approved for Suboxone (Buprenorphine) and had been taking it since ██████████.
3. On ██████████, the Department received a request from Appellant's doctor, who specializes in pain management, for continuation therapy on Suboxone; the doctor indicated that he does not have an "X"

DEA license number to prescribe Suboxone; and it was indicated that Appellant's expected duration of treatment on Suboxone is "unknown." (Exhibit 1, page 7)

4. The request for continued authorization for Suboxone was reviewed by the Department and a Department physician.
5. The Department physician recommended that the request for continued authorization for Suboxone be denied on the basis: an X-DEA license is required by the State of Michigan to prescribe Suboxone; there was no evidence that Appellant has undergone substance abuse counseling; and Suboxone cannot be authorized for maintenance or long-term treatment. (Exhibit 1, pages 8 & 9)
6. On or about ██████████ the Department sent Appellant and his physician notice that his request for continued authorization for Suboxone was denied because he does not meet the criteria for continued coverage. (Exhibit 1, page 3)
7. No additional information was sent to the Department in response to the denial.
8. On ██████████ the Department received Appellant's request for an Administrative Hearing, protesting the Department's denial of Suboxone. (Exhibit 1, Pages 2 and 3)

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.

Social Security Act § 1927(d), [42 USC 1396r-8(d)]

LIMITATIONS ON COVERAGE OF DRUGS –

(1) PERMISSIBLE RESTRICTIONS –

- (A) A state may subject to prior authorization any covered outpatient drug. Any such prior authorization program shall comply with the requirements of paragraph (5).
- (B) A state may exclude or otherwise restrict coverage of a covered outpatient drug if –

- (i) the prescribed use is not for a medically accepted indication (as defined in subsection (k)(6);
- (ii) the drug is contained in the list referred to in paragraph (2);
- (iii) the drug is subject to such restriction pursuant to an agreement between a manufacturer and a State authorized by the Secretary under subsection (a)(1) or in effect pursuant to subsection (a)(4);
or
- (iv) the State has excluded coverage of the drug from its formulary in accordance with paragraph 4. (Exhibit 1, Page 16, underline added).

The Department's Medicaid Provider Manual, Pharmacy section, July 1, 2007, page 16 states:

A PA (prior authorization) is denied if:

- The medical necessity is not established.
- Alternative medications are not ruled out.
- Evidence-based research and compendia does not support it.
- It is contraindicated, inappropriate standard of care,
- It does not fall within MDCH clinical review criteria.
- Documentation required was not provided.

(Exhibit 1, Page 20)

The Department is authorized by federal law to develop a prior authorization process. The Department's witness from ██████████ testified at the hearing that Suboxone is a medication subject to prior authorization. Providers must have a special "X" DEA license number in order to prescribe Suboxone. Additionally, Suboxone (Buprenorphine) is a Schedule III narcotic subject to the Controlled Substances Act, and it is a narcotic medication with potential for abuse and dependence. Michigan Medicaid covers Suboxone only for addiction treatment/detoxification. Further, patients must be undergoing active, formal substance abuse counseling, and details of that formal counseling/treatment must be provided to the Department in order to obtain prior authorization. Michigan Medicaid covers Suboxone only for an initial three month approval. An additional two month approval can occur if required documentation of three month prior compliance with a detoxification program is received. Therefore, Michigan Medicaid places a limitation on coverage of Suboxone to a maximum of five months. If continued treatment is necessary beyond five consecutive months, another prior authorization is necessary. The prior authorization request for continued

authorization beyond five consecutive months should include issues of the length of therapy and long-term plan for the patient. (Exhibit 1, pages 11 & 12)

Appellant has been on Suboxone (Buprenorphine) since [REDACTED]. The Department witness testified that the request for continued authorization for Suboxone was denied because: an X-DEA license is required by the State of Michigan to prescribe Suboxone; there was no evidence that Appellant has undergone substance abuse counseling; and Suboxone cannot be authorized for maintenance or long-term treatment.

Appellant testified that he needs the Suboxone for pain management, and he wants to live a long quality life not a life in pain. In addition, Appellant testified that without the drug, he would be bedridden and his love life would suffer. Appellant's physician, who specializes in pain management, submitted the prior authorization request for Suboxone on Appellant's behalf.

This Administrative Law Judge must uphold the Department's denial. Suboxone can not to be used for pain management or long-term treatment, and Appellant failed to establish that he met the criteria for continued authorization of it. The Department acted in accordance with its policy in denying Appellant's request for Suboxone.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly denied Appellant's request for Suboxone.

IT IS THEREFORE ORDERED THAT:

The Department's decision is AFFIRMED.

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

cc: [REDACTED]

Date Mailed: 3/17/2009

***** 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.