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. 2010-26936 QHP
[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] appeared on her own behalf.

[redacted] was represented by [redacted], [redacted] Manager Clinical Services, and [redacted], appeared as witnesses for Health Plan of Michigan. [redacted] is a Department of Community Health contracted Medicaid Health Plan (hereinafter MHP).

ISSUE

Did the Medicaid Health Plan properly deny the Appellant's request for Xenazine?

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 who is currently enrolled in [redacted] a Medicaid Health Plan (MHP).

2. The Appellant suffers from [redacted]. (Exhibit 1, pages 7-8)

3. On [redacted], the MHP received a prior authorization request for Xenazine from the Appellant's doctor. (Exhibit 1, page 7)

4. On [redacted] the MHP sent the Appellant an Adequate Action Notice stating that the request for Xenazine was not authorized because the clinical information submitted did not show the MHP's formulary requirements were met. Specifically trial and failure of at least 2 prior drug therapies and lab studies documenting liver function. (Exhibit 1, pages 11-12)

5. On [redacted], the State Office of Administrative Hearings and Rules received the Appellant's Request for Hearing. (Exhibit 1, page 6)

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.

The DCH-MHP contract provisions allow prior approval procedures for utilization management purposes. The MHP Regional Director of Pharmacy explained that the MHP's Formulary is published and has been reviewed and approved by the state. The RN Manager of Clinical Services testified that the formulary requirements for Xenazine include documentation of step therapy, meaning a therapeutic trial and failure of at least 2 prior drugs, and lab studies documenting liver function.

The MHP Regional Director of Pharmacy testified that three attempts were made to obtain the needed information from the Appellant's physician to show that the coverage criteria had been met. The MHP RN Manager of Clinical Services testified that the Appellant's pharmacy history was also reviewed for evidence of trial and failure of at least 2 prior drugs. The MHP denied the prior authorization request because no lab

studies documenting liver function were submitted and there was no information provided to support that the Appellant had failed at least 2 prior drug therapies. (Exhibit 1, page 1)

The Appellant disagrees with the denial and testified that Xenazine is the only drug approved by the FDA to treat Huntington's Chorea. The Appellant stated that the other drugs listed by the MHP for step therapy trial were not designed to treat this disease, but rather psychiatric or other conditions. The Appellant acknowledged that she has not tried any of the other medications. The Appellant explained that she was not aware the lab studies documenting liver function were required prior to the MHP's denial. The Appellant testified she has since had the lab work performed and copies should be sent to the MHP.

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 MHP is allowed to require step therapy as part of the prior approval process for a medication. The Appellant has not tried any of the other medications nor was the lab work completed at the time the prior authorization was submitted. The MHP demonstrated that based on the information it had at time the denial decision was made, the Appellant did not meet criteria for approval of Xenazine.

DECISION AND ORDER

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

IT IS THEREFORE ORDERED that:

The Medicaid Health Plan's decision is AFFIRMED.

Colleen Lack
Administrative Law Judge
for Janet Olszewski, Director
Michigan Department of Community Health

cc: [redacted]

Date Mailed: 6/7/2010

***** 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.