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:

Docket No. 2010-32445 PA
Case No. [redacted]

[redacted]

Appellant
_____/

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], aunt, appeared as the Appellant's representative. [redacted], Appeals Review Officer, represented the Department. [redacted], Medical Consultant Office of Medical Affairs, appeared as a witness for the Department.

ISSUE

Did the Department properly deny the Appellant's prior authorization request for out of state genetic testing?

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 [redacted] year old Medicaid beneficiary who has been diagnosed with seizures, developmental delay and autism. (Exhibit 1, page 8)

2. On [redacted], the Department received a prior approval-request for out of state genetic testing for the Appellant from Transgenic labs. Attached was a letter of medical necessity from Dr. Huq and a Final Report from a [redacted] outpatient visit to the neurology clinic. (Exhibit 1 pages 8-9)

3. On [redacted], the Department denied the prior authorization request because the submitted information did not show what treatment or services would be changed after lab work was completed. (Exhibit 1, pages 5-6)

4. On [redacted], the Department sent a letter to [redacted] informing him of the denial and stating that the Department would reconsider the request if additional information was submitted identifying the services or treatment which would not be performed or would be changed by having the results of the testing. (Exhibit 1, page 4)

5. On [redacted], the State Office of Administrative Hearings and Rules received the hearing request filed on the Appellant's behalf. (Exhibit 1, page 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.

The Program Overview for the Medical Supplier section of the Medicaid Provider Manual states:

> **1.10 PRIOR AUTHORIZATION**
>
> Medicaid requires prior authorization (PA) to cover certain services before those services are rendered to the beneficiary. The purpose of PA is to review the medical need for certain services. It does not serve as an authorization of fees or beneficiary eligibility. Different types of services requiring PA include:
>
> - Procedures identified as requiring PA on the procedure code databases on the MDCH website;
> - Procedures/items that are normally noncovered but may be medically necessary for select beneficiaries (e.g., surgery normally cosmetic in nature, obesity surgery, off-label use drugs, etc.); and
> - Referrals for elective services by out-of-state nonenrolled providers.

1.10.A. TO OBTAIN PRIOR AUTHORIZATION

Providers must submit a letter to the MDCH Program Review Division to obtain PA. (Refer to the Directory Appendix for contact information.) The letter and materials submitted requesting PA must include:

- Beneficiary's name and Medicaid ID number.
- Provider's name, address, NPI number.
- Contact person and phone number.
- A complete description, including Current Procedural Terminology (CPT)/Health Care Financing Administration Common Procedure Coding System (HCPCS) procedure codes as appropriate, of the procedure(s) that will be performed.
- The beneficiary's past medical history, including other treatments/procedures that have been tried and the outcome, diagnostic test results/reports, expectations and prognosis for the proposed procedure, and any other information to support the medical need for the service.

MDCH Medicaid Provider Manual,
Practitioner Section,
April 1, 2010, page 4

6.3 OUT OF STATE/BEYOND BORDERLAND PROVIDERS

Reimbursement for services rendered to beneficiaries is normally limited to Medicaid-enrolled providers. MDCH reimburses out of state providers who are beyond the borderland area (defined below) if the service meets one of the following criteria:

- Emergency services as defined by the federal Emergency Medical Treatment and Active Labor Act (EMTALA) and the Balanced Budget Act of 1997 and its regulations; or
- Medicare and/or private insurance has paid a portion of the service and the provider is billing MDCH for the coinsurance and/or deductible amounts; or
- The service is prior authorized by MDCH. MDCH will only prior authorize non-emergency services to out of state/beyond borderland providers if the service is not available within the state of Michigan and borderland areas.

Managed Care Plans follow their own Prior Authorization criteria for out o network/out of state services.

Providers must be licensed and/or certified by the appropriate standard-setting authority.

> All providers (except pharmacies) rendering services to Michigan Medicaid beneficiaries must complete he on-line application process described in the Provider Enrollment Section of this Chapter in order to receive reimbursement. Exceptions to this requirement may be made in special circumstances. These circumstances will be addressed through the Prior Authorization process. Pharmacies must complete the enrollment process with MDCH's PBM. Refer to the Provider Enrollment Section of this Chapter for additional information.
>
> Out of state/beyond borderland providers enrolled with the Michigan Medicaid program may submit their claims directly to the MDCH billing system. Providers should refer to the appropriate Billing and Reimbursement chapter of this manual for billing instructions.
>
> Out of state/beyond borderland providers have a responsibility to follow Michigan Medicaid policies, including obtaining PA for those services that require PA.
>
> **All nonemergency services rendered by providers require the referring physician to obtain written PA from MDCH as indicated in the Prior Authorization Section of this chapter.**
>
> MDCH Medicaid Provider Manual,
> *General Information For Providers Section,*
> *April 1, 2010, page 10*

In the present case, the Department received a prior authorization request for elective out of state genetic testing from Transgenomic Labs. The Department denied the prior authorization request because the submitted information did not show what treatment or services would be changed after the lab work was completed. (Exhibit 1, page 5) This is consistent with the above cited Medicaid policy requiring the provider to submit expectations and prognosis for the proposed procedure as well as any other information supporting the medical need for the service.

This ALJ has reviewed the submitted documentation and agrees that medical necessity has not been established for the requested genetic testing. The Final Report from the neurology outpatient clinic indicates that the genetic testing was requested to further evaluate the cause of the Appellant's developmental delay and autism. (Exhibit 1, page 9) However, the letter of medical necessity does not indicate how the results of the test would affect treatment of the Appellant's developmental delay and autism.

The Appellant's aunt stated that she understands there was a lack of medical information to support how this test will benefit the Appellant and believes the Appellant should see another doctor. She testified that the Appellant is very ill with uncontrollable symptoms and that the Appellant's mother, a single mom, needs help. The Appellant's

aunt was advised that the Appellant may qualify for assistance services and his mother may wish to contact Community Mental Health.

Based on the submitted information, the Department properly denied the Appellant's request for the genetic testing. If additional information supporting medical necessity is available, a new prior authorization request can always be submitted to the Department.

DECISION AND ORDER

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

IT IS THEREFORE ORDERED that:

The Department's decision is AFFIRMED.

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

cc: [redacted]

Date Mailed: 7/13/2010

***** 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.