STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
FOR THE DEPARTMENT OF COMMUNITY HEALTH
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IN THE MATTER OF:

Docket No. 2010-36173 QHP
Case No. [redacted]

[redacted],

Appellant
_____/

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge (ALJ) pursuant to MCL 400.9 and 42 CFR 431.200 *et seq.,* following the Appellant's request for a hearing.

After due notice, a hearing was held on [redacted]. The Appellant's [redacted] represented her. [redacted], represented the [redacted], the Medicaid Health Plan (MHP). [redacted], appeared as a witness for the MHP.

ISSUE

Did the MHP properly deny the Appellant's request for a right leg prosthesis?

FINDINGS OF FACT

Based upon the competent, material, and substantial evidence presented, the Administrative Law Judge finds, as material fact:

1. The Appellant is currently enrolled in the Respondent MHP, [redacted].

2. The Appellant is a [redacted] bi-lateral above-the-knee amputee. (Testimony of [redacted])

3. On [redacted], the MHP received a request for a permanent right leg prosthesis for the Appellant from [redacted]. (Exhibit 1, page 16)

4. On [redacted], the MHP contacted [redacted] requesting more information. Specifically, the MHP requested information regarding the Appellant's level of ambulation.

5. On [redacted], the MHP sent the Appellant a denial notice, stating that her request for a permanent right leg prosthesis was not authorized because the submitted clinical documentation did not establish that all criteria for the prosthesis had been met. Specifically, there was no documentation to support the following: (1) that the Appellant had a significant increase in her activity and walking level; (2) that the Appellant has had instruction or is able to walk with a temporary right leg prosthesis; and (3) that the Appellant is being followed by a physical therapist to assess the fit and comfort of her recently issued left leg temporary prosthesis, as well as to track any improvement in her ability to walk (Exhibit 1, pages 9-11)

6. The Appellant requested a formal, administrative hearing contesting the denial on [redacted]. (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 MHPs.

The Respondent is one of those MHPs.

> 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. The Contractor 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 2.024.

Section 1.022(E)(1), Covered Services.
MDCH contract (Contract) with the Medicaid Health Plans,
October 1, 2009.

(1) The major components of the Contractor's utilization management (UM) program must encompass, at a minimum, the following:

(a) Written policies with review decision criteria and procedures that conform to managed health care industry standards and processes.

(b) A formal utilization review committee directed by the Contractor's medical director to oversee the utilization review process.

(c) Sufficient resources to regularly review the effectiveness of the utilization review process and to make changes to the process as needed.

(d) An annual review and reporting of utilization review activities and outcomes/interventions from the review.

(e) The UM activities of the Contractor must be integrated with the Contractor's QAPI program.

(2) Prior Approval Policy and Procedure
The Contractor must establish and use a written prior approval policy and procedure for UM 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 UM decisions be made by a health care professional who has appropriate clinical expertise regarding the service under review.

Section 1.022(AA), Utilization Management, Contract,

October 1, 2009.

As stated in the Department-MHP contract language above, a MHP "must operate consistent with all applicable Medicaid Provider Manuals and publications for coverages and limitations." The pertinent section of the Michigan Medicaid Provider Manual (MPM) states:

> **2.37 PROSTHETICS (LOWER EXTREMITIES)**
>
> **Standards of Coverage**
>
> A **lower extremity prosthesis** may be covered to restore mobility for a beneficiary who demonstrates the ability to transfer and/or ambulate, and the beneficiary's potential functional level is between ranges of K1 through K4.
>
> **Documentation**
>
> Documentation must be less than 60 days old and include the following:
>
> - Diagnosis/medical condition related to service requested.
> - Current functional "K" level.
> - An occupational or physical therapy evaluation may be required on a case-by-case basis when PA is required.
>
> *Department of Community Health,*
> *Medicaid Provider Manual, Medical Supplier*
> *Version Date: April 1, 2010, Page 65*

The MHP witness explained that the prosthesis in this case was denied because of a lack of documentation. The only documentation that was submitted to the MHP was current notes from [redacted]. There was no documentation that the Appellant's functional level had progressed from her temporary prostheses—which were authorized in [redacted] and [redacted]—to the more advanced components of a permanent one. In addition, there was no documentation regarding the Appellant's ambulatory status with the temporary prostheses or whether she had worked with a physical therapist on issues of comfort and fit. Indeed, the MHP received no documentation from either Plaintiff's treating physician or her physical therapist.

The MHP witness noted that attempts were made to obtain additional information from both [redacted], and the Appellant's treating physician. However, no information was ever received. She further acknowledged that with the proper documentation, the Appellant would be entitled to prostheses.

The Appellant's physical therapist testified that he began treating the Appellant in [redacted] to prepare her for prostheses. He explained that he worked with the Appellant to strengthen her and to eliminate contractures in her hips. However, he was not aware that that any temporary prostheses had been authorized for the Appellant. He further testified that the MHP never requested any information from him and that he did not know that he could submit information directly to the MHP. He stated that he did provide his notes to the Appellant's treating physician, whom was supposed to forward them to the MHP.

While this ALJ sympathizes with the Appellant's situation, the documentation provided did not support that she met the criteria for prior approval of a permanent right leg prosthesis. Accordingly, the MHP's denial was proper. However, as was explained at the hearing, the Appellant may re-apply for prior approval at any time.

DECISION AND ORDER

The ALJ, based on the above findings of fact and conclusions of law, decides that the MHP properly denied the Appellant's request for a right leg prosthesis.

IT IS THEREFORE ORDERED that:

The MHP's decision is AFFIRMED.

Kristin M. Heyse
Administrative Law Judge
for Janet Olszewski, Director
Michigan Department of Community Health

cc: [redacted]

Date Mailed: 8/20/2010

***** 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.