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

[redacted]

Appellant
_____/

Docket No. 2010-38663 QHP
Case No. [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]. [redacted], RN Manager Clinical Review Services, appeared as a witness for [redacted]. [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 OxyContin?

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 has been enrolled in [redacted] a Medicaid Health Plan (MHP), since [redacted]. (RN Manager Clinical Review Services Testimony)

2. The Appellant suffers from chronic knee pain. (Exhibit 1, page 7)

3. The Appellant has been taking OxyContin since [redacted]. (Exhibit 1, page 7)

4. In [redacted], the MHP issued a notice to members and participating physicians that the MHP's policy regarding the approval criteria for Oxycontin would change effective [redacted]. (RN Manager Clinical Review Services Testimony)

5. The new approval criteria requires that Oxycontin was prescribed by an oncologist or pain management specialist. (Exhibit 1 pages 25-26)

6. On [redacted], the MHP received a prior authorization request for OxyContin from the Appellant's family practice doctor. (Exhibit 1, pages 7 and 11-15)

7. On [redacted], the Appellant's family practice doctor submitted additional documentation requested by the MHP for further review of the prior authorization request. (Exhibit 1, pages 16-20)

8. On [redacted], the MHP sent the Appellant an Adequate Action Notice stating that the request for Oxycontin was not authorized because there was no involvement of a board certified pain management physician in the prescribing of OxyContin. (Exhibit 1, page 21)

9. On [redacted], the MHP received another prior authorization request for OxyContin with from the Appellant's family practice doctor with an attached referral authorization for a pain management specialist appointment on [redacted]. (Exhibit 1, pages 7-10)

10. On [redacted], the Appellant appealed the MHP's denial of OxyContin. (Exhibit 1, page 6)

11. The Appellant canceled the [redacted] appointment due to transportation and financial concerns. (Appellant Testimony)

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 representative and MHP witness explained that for OxyContin, the MHP requires prior approval. The MHP explained that the new approval criteria policy requires an oncologist or pain management physician prescribe this medication. The RN Manager Clinical Review Services explained that the MHP requires the involvement of a pain management specialist in chronic pain cases, even when the beneficiary has been on this medication for years, to ensure that OxyContin is still the most appropriate treatment.

The Appellant testified that she went to the local pain clinic for a year when she first enrolled in the MHP. She explained that the pain clinic initially prescribed the OxyContin, and then transferred her back to the family practice doctor to continue prescribing this medication because they could not do anything else for her. The Appellant explained the local pain clinic will not take her back, and she is not able to go to the pain management doctor in [redacted] for ongoing treatment due to low income and transportation concerns. Therefore, she cancelled the appointment for [redacted]

The RN Manager Clinical Review Services stated that a current evaluation from a pain management specialist is needed in the Appellant's case. This may be only an annual evaluation visit, if the pain management doctor agrees that OxyContin is still the most appropriate treatment for the Appellant. The MHP explained that they can assist with the transportation arrangements.

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. Based on the Appellant's testimony, she has not seen a pain management specialist in at least 10 years. The MHP's requirement that a pain management specialist be involved to ensure that OxyContin is still the most appropriate treatment for the Appellant's chronic pain is reasonable.

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 Oxycontin.

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: 8/31/2010

***** 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.