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. 2010-3944 QHP
Case No. [redacted]

[redacted]

Appellant
_____/

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Appellant's request for a hearing.

After due notice, a hearing was held on [redacted]. [redacted] appeared on her own behalf. [redacted], represented the Medicaid Health Plan (MHP), [redacted] (MHP). [redacted]; and [redacted], appeared as witnesses for the MHP.

ISSUE

Did the Medicaid Health Plan properly deny coverage of Appellant's out-of-network physician visit for which no referral had been obtained?

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 Medicaid eligible and is subject to the Medicaid managed care program and to program conditions.

2. The Appellant is enrolled in the [redacted] Medicaid Health Plan and was enrolled on [redacted].

3. The Appellant is a [redacted] woman with a history of knee replacement.

4. The MHP referral policy is consistent with Medicaid policy and requires a primary care physician (PCP) referral to an out-of-network provider. [redacted] is an out-of-network provider.

5. On [redacted], the Appellant arrived at the office of [redacted] for a

follow-up orthopedic surgery appointment. When Appellant arrived at the orthopedic office, she was informed by office staff that her previous PCP referral had expired and she did not have a referral for that day's visit. [redacted] office staff required Appellant to sign a statement admitting she lacked a referral and agreeing to privately pay for the visit. (Exhibit C, p 1).

6. On [redacted], the Appellant was sent a bill for the [redacted], orthopedic surgery visit.

7. Appellant went through the MHP grievance process and the MHP determined no PCP referral to [redacted] had ever been received and therefore it could not cover the [redacted], orthopedic surgery visit.

8. On [redacted], the State Office of Administrative Hearings and Rules for the Department of Community Health received the Appellant's request for an administrative hearing. (Exhibit 2).

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.** (Bold added by ALJ).
>
> *Article II-G, Scope of Comprehensive Benefit Package. MDCH contract (Contract) with the Medicaid Health Plans, FY 2008.*

The Appellant wrote in her hearing request and testified during the hearing that on [redacted], when she arrived at the office of [redacted] for a follow-up orthopedic surgery

appointment she was informed by office staff that her previous PCP referral had expired and she did not have a referral for that day's visit. The Appellant further testified that she signed the statement admitting she lacked a referral and agreeing to privately pay for the visit because she had made the trip from [redacted] to [redacted] office in [redacted]. (Exhibit C, p 1). Appellant testified she returned home and left a message on an answering machine at her PCP's office saying she needed a referral to cover the appointment that had already taken place. The Appellant stated she did not hear anything about non-coverage until she received a bill from the orthopedic office.

The PHP testified its policy is consistent with Medicaid policy. The burden is on the Appellant to prove by a preponderance of evidence that she had a referral for the [redacted], appointment. Neither prior to hearing nor during the hearing did the Appellant provide the referral. The MHP's denial is affirmed.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Medicaid Health Plan properly denied Appellant coverage for an out-of-network physician visit for which no referral had been obtained.

IT IS THEREFORE ORDERED that:

The Medicaid Health Plan's decision is AFFIRMED.

Lisa K. Gigliotti
Administrative Law Judge
for Janet Olszewski, Director
Michigan Department of Community Health

cc: [redacted]

Date Mailed: 12/16/2009

***** 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.