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. 2010-41184 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 [redacted]. The [redacted], represented her.

[redacted], represented the Medicaid Health Plan. [redacted], was present on behalf of [redacted]. [redacted], was present. [redacted], was also present at the hearing.

ISSUE

Did the MHP properly deny the Appellant's request for orthodontic treatment?

FINDINGS OF FACT

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

1. The Appellant is a [redacted] Medicaid beneficiary who is currently enrolled in the Respondent MHP, [redacted].

2. The Appellant is diagnosed with an underbite, has a concave facial profile, a class III skeletal pattern and sleep apnea (non-exhaustive list of ailments).

3. The Appellant is seeking jaw surgery.

4. The Appellant's physician indicates the surgery will also correct his sleep apnea.

5. Following an orthodontic consultation, it was determined the sought-after jaw surgery would not be performed before orthodontic treatment.

6. The Appellant seeks prior authorization for orthodontic services from the Respondent.

7. The Respondent denied the request for orthodontic services, citing coverage exclusions for orthodontic services.

8. A Notice denying prior authorization for orthodontic services was mailed [redacted].

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

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:

> SECTION 7 – NONCOVERED SERVICES
> The following dental services are excluded from Medicaid coverage:
> - Orthodontics, unless there is a CSHCS qualifying diagnosis
> - Gold Crowns, Gold Foil Restorations, Inlay/Onlay restorations
> - Fixed Bridges
> - Bite Splints, Mouthguards, sports appliances
> - TMJ Services
> - Services or Surgeries that are experimental in nature
> - Dental Devices not approved by the FDA
> - Analgesia, Inhalation of Nitrous Oxide
>
> *Department of Community Health,*
> *Medicaid Provider Manual, Dental*
> *Version Date: July 1, 2010, Page 21*

The MHP witness explained that the contract limits covered services to those consistent with the Medicaid Provider Manual. The Medicaid Provider Manual explicitly excludes coverage of orthodontic treatment, except in certain specific circumstances. Here, it appears the Appellant may qualify for the sought after orthodontic treatment if he were enrolled in Children's Special Health Care. There is no evidence he is enrolled in this special coverage. He may have a qualifying diagnosis for this coverage. His mother was encouraged to explore this option during the hearing.

While this ALJ sympathizes with the Appellant's situation, the documentation provided did not support that he met the criteria for prior approval of the orthodontic services prior to enrolling in Children's Special Health Care services. He is encouraged to contact the Department of Community Health to explore this potential resource.

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 orthodontic services.

IT IS THEREFORE ORDERED that:

The MHP's decision is AFFIRMED.

Jennifer Isiogu
Administrative Law Judge
for Janet Olszewski, Director
Michigan Department of Community Health

cc: [redacted]

Date Mailed: 9/15/2010

***** 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.