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 Nos. 2010-49403 QHP

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.,* following the Appellant's request for a hearing.

After due notice, a hearing was held on . The Appellant, , appeared on her own behalf. Attorney represented the Medicaid Health Plan (MHP), , Inc. RN/Hearing Coordinator, and l, Medical Director, appeared as witnesses for the MHP. , Paralegal, was also present for the hearing.

ISSUE

Did the MHP properly deny Appellant's request for a liver transplant evaluation?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Appellant is a Medicaid beneficiary enrolled in the MHP.

2. The Appellant is a , who has been diagnosed with chronic hepatitis C and cirrhosis. (Exhibit 1, page 4).

3. On , the MHP received the Appellant's request for prior authorization of a liver transplant evaluation from Systems. (Exhibit 1, page 12).

4. On , the MHP sent a letter to the Appellant, stating that the request was denied because her Model for End-Stage Liver Disease (MELD) score of 7 does not meet the criteria for liver transplant evaluation. (Exhibit 1, page 3)

5. On [redacted], the Appellant submitted her Request for Hearing.

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. 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)(1) and (2),
Utilization Management, Contract,
October 1, 2009.

The MHP's Medical Director testified that the Appellant's request for a liver transplant evaluation was denied because her MELD score was too low to meet criteria. He explained that, pursuant to national criteria, liver transplants are generally only done on patients with a MELD score of 15 or higher, and if a patient's MELD score is not 15 or higher, then an evaluation is not medically necessary. He testified that the Appellant's MELD score is 7. He further explained that the Appellant's MELD score of 7 indicates that her life expectancy is greater than the required 12 to 24 months.

The Appellant testified that she does not want to wait until the last minute to receive a liver transplant. She explained that she has been in and out of the hospital since she was diagnosed in [redacted]. She stated that she has family members that are willing to be tested, and she would like to be evaluated, even if she is put at the bottom of the transplant waiting list.

The MHP improperly denied the request for a liver transplant evaluation in this case. While this ALJ agrees that the general rule is that patients with a MELD score under 15 do not meet criteria for a liver transplant, the criteria also provides "special consideration" for patients who have a score less than 15, but also have another condition, including a history of drug use. Indeed, the criteria specifically states, in

pertinent part, as follows:

> Patients with a MELD > 15 will not be approved unless one or more of the following conditions are present:
>
> - Remote history (> 6 months in the past) of alcohol or substance abuse or occasional recreational use of marijuana.
>
> (Exhibit 1, pages 5-6)

Here, the Appellant's supporting medical documentation evidences drug use up to . (Exhibit 1, page 3). Pursuant to its own criteria, the MHP should have considered the Appellant's documented history of drug use when determining her eligibility for a liver transplant evaluation. Because it did not, its denial must be reversed.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the MHP improperly denied the Appellant's request for a liver transplant evaluation.

IT IS THEREFORE ORDERED that:

The MHP's decision is REVERSED. The MHP is ordered to reconsider the Appellant's request in light of her history of drug use and issue a new denial or approval letter.

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

cc:

Date Mailed: 11/5/2010

***** 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.