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. 2010-6520 QHP
[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], Director of Member Services. [redacted], Manager Clinical Review Services, [redacted], Director of Pharmacy, and [redacted], Associate Medical Director, appeared as witnesses 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 who is currently enrolled in [redacted], a Medicaid Health Plan (MHP).

2. The Appellant suffers from chronic pain. (Exhibit 1, page 9)

3. On [redacted], the MHP received a prior authorization request for Oxycontin from the Appellant's doctor. (Exhibit 1, page 9)

4. The MHP requested additional clinical records from the Appellant's doctor's office because the information submitted with the prior authorization request and the information available from the pharmacy claim history did not show that the Appellant completed a step therapy program with alternative medications. (Testimony)

5. In response, the Appellant's doctor's office sent a fax to the MHP stating "pt has failed methadone." (Exhibit 1, page 10) No additional chart notes or clinical documentation was received by the MHP. (Testimony)

6. On [redacted], the MHP sent the Appellant an Adequate Action Notice stating that the request for Oxycontin was not authorized because the information submitted did not show the step therapy requirements were met, meaning trial and failure of first line medications for pain. (Exhibit 1, pages 11-12)

7. The Appellant appealed 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 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 a narcotic such as Oxycontin, the MHP requires prior approval. In order to achieve prior

approval it was further explained that a step therapy program must been completed. There must be documentation of a therapeutic trial and failure of first line medications for pain such as Morphine Sulfate, Methadone, and Oxycodone IR prior to the request for Oxycontin.

The MHP testified that the information submitted with the request for Oxycontin did not show the step therapy requirements were met in the Appellant's case. The MHP witness further testified that the Appellant's paid claim history was also reviewed back to 2007, when the Appellant joined the health plan, and no claims were found for any of the first line medications.

The MHP testified that they contacted the Appellant's doctor's office requesting additional clinical documentation. The MHP stated that they only received a faxed note back from the Appellant's doctor's office stating "pt has tried and failed Methadone." The MHP explained that this statement was not sufficient to document completion of step therapy because it did not indicate how long ago methadone was tired, how long the Appellant took this medication and what response she had.

The Appellant testified that she has tried numerous pain medications and treatments which have failed and did not understand why the requested additional clinical documentation was not submitted. The Appellant stated she was on Morphine Sulfate for about a year and a half in [redacted] but it did not relieve her pain and caused nausea. The Appellant explained that her doctor did not want her to take the Oxycontin IR because it would be too many pills to reach the dosage she needed. The Appellant also stated that she has also tried Vicodin, Lortab, Norco and injections to relieve her pain. Unfortunately, the Appellant's physician's office did not submit documentation of these unsuccessful treatment attempts to the MHP. The Appellant may wish to submit a new request for this medication with additional clinical documentation.

The MHP can only make a determination using the information available at the time of the request. 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. The MHP demonstrated that based on the information it had at time the denial decision was made, the Appellant did not meet criteria for approval of Oxycontin. As such, the MHP properly denied prior approval of Oxycontin.

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: 1/21/2010

***** 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.