

**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:

██████████

Appellant

_____ /

Docket No. 2010-7392 PA

██████████

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 ██████████. ██████████, mother, appeared on the Appellant's behalf. ██████████, Appeals Review Officer, represented the Department. ██████████, MDCH Analyst, appeared as a witness for the Department.

ISSUE

Did the Department properly deny the Appellant's prior authorization request for Bright Beginnings Soy Formula?

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 an 8 year old Medicaid beneficiary.
2. On ██████████, the Department gave a verbal approval for enteral nutrition for the Appellant. (Exhibit 1, page 4)
3. Documentation to support a verbal prior authorization (PA) is required to be submitted within 30 days. (Exhibit 1, pages 19-20)
4. On ██████████, the Department received the PA form and medical documentation from ██████████ ██████████ ██████████ requesting Bright Beginnings Soy Formula for the Appellant. (Department Exhibit 1 pages 7-16)

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5. The PA request form listed diagnoses of cerebral palsy, gastritis, esophagitis, and adrenal insufficiency. (Exhibit 1, page 7)
6. The medical documentation attached to the PA request included a certificate of medical necessity indicating septo-optic dysplasia and milk protein allergy, as well as documentation from a hospitalization beginning [REDACTED], for acute renal failure. (Department Exhibit 1, pages 8-16)
7. On [REDACTED], the Department denied the prior authorization request because published standards of coverage were not met. (Department Exhibit 1, pages 4-5)
8. On [REDACTED], the State Office of Administrative Hearings and Rules received a hearing request from [REDACTED] and [REDACTED], protesting the denial. The hearing request re-submitted with the Appellant's mother's signature on [REDACTED] (Department Exhibit 1, page 3)

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.

1.7 PRIOR AUTHORIZATION

Prior authorization (PA) is required for certain items before the item is provided to the beneficiary or, in the case of custom-made DME or prosthetic/orthotic appliances, before the item is ordered. To determine if a specific service requires PA, refer to the Coverage Conditions and Requirements Section of this chapter and/or the MDCH Medical Supplier Database on the MDCH website.

PA will be required in the following situations:

- Services that exceed quantity/frequency limits or established fee screen.
- Medical need for an item beyond MDCH's Standards of Coverage.
- Use of a Not Otherwise Classified (NOC) code.
- More costly service for which a less costly alternative may exist.
- Procedures indicating PA is required on the MDCH Medical Supplier Database.

1.7.A. PRIOR AUTHORIZATION FORM

Requests for PA must be submitted on the Special Services Prior Approval-Request/Authorization form (MSA-1653-B). (Refer to the Forms Appendix for a copy of the PA form and completion instructions.) In addition, medical documentation (e.g., prescription, CMN, letter or other) must accompany the form. The information on the PA request form must be:

- Typed – All information must be clearly typed in the designated boxes of the form.
- Complete – The provider must provide the specific HCPCS code and the HCPCS code description. If the service falls under a NOC code, a complete description of the service and/or specific materials and labor time, if applicable. The prescription must be submitted with the request. (Refer to the Coverage Conditions and Requirements Section of this chapter for additional information.)

PA request forms and attached documentation may be mailed or faxed to the MDCH Program Review Division. (Refer to Directory Appendix for contact information.)

Instructions for the electronic submission of PA requests and the HIPAA 278 transaction code set are available on the MDCH website. (Refer to the Directory Appendix for website information.)

1.7.B. EMERGENCY PRIOR AUTHORIZATION

A provider may contact MDCH to obtain a verbal PA when the prescribing physician has indicated that it is medically necessary to provide the service within a 24-hour time period.

To obtain a verbal PA, the provider may call the Program Review Division or fax a request. If the provider chooses to use a PA form to request a verbal authorization, "verbal PA request" must be in box 37 and the physician's name and phone number. (Refer to the Directory Appendix for contact information.)

If an emergency service is required during nonworking hours (i.e., after 4:00 p.m., weekends, and State of Michigan holidays), the provider must contact the Program Review Division on the next available working day.

The following steps must still be completed before an actual PA number is issued for billing purposes:

- Submission of the PA request (MSA-1653-B) to MDCH within 30 days of the verbal authorization. (Include the date of the verbal authorization in Box 37.)
- Submission of the supporting documentation (e.g., prescription and CMN, physician letter, or applicable medical record).

The PA number will not be given for billing MDCH and the provider will not be reimbursed if:

- The beneficiary was not eligible when the service was provided.
- A completed PA request (MSA-1653-B) is not received within 30 days of the verbal authorization.
- Required prescription and documentation is not received.
- The prescription and/or documentation are not signed within 30 days of the effective date.
- The prescription and/or documentation are not received within 30 days of the date of service (DOS).
- The medical need for the service is different than what was verbally given and does not fall within the Standards of Coverage.

Verbal authorization does not guarantee payment or eligibility.

*MDCH Medicaid Provider Manual, Medical Supplier
Section, January 1, 2009, pages 7-8.
(Exhibit 1, pages 19-20)*

In the present case, a verbal authorization for enteral nutrition for the Appellant was given on ██████████. The required documentation was not received within the required 30 days. The PA request form with attached medical documentation was not submitted until ██████████. However, the Department still reviewed the PA request under the applicable Medicaid policy.

The Standards of Coverage for orally administered enteral nutrition for a beneficiary under age 21 can be found in the Medical Supplier section of the Medicaid Provider Manual:

2.13.A. ENTERAL NUTRITION (ADMINISTERED ORALLY)

Standards of Coverage

Enteral nutrition (administered orally) may be covered for beneficiaries under the age of 21 when:

- A chronic medical condition exists resulting in nutritional deficiencies and a three month trial is required to prevent gastric tube placement.
- Supplementation to regular diet or meal replacement is required, and the beneficiary's weight-to-height ratio has fallen below the fifth percentile on standard growth grids.
- Physician documentation details low percentage increase in growth pattern or trend directly related to the nutritional intake and associated diagnosis/medical condition.

For CSHCS coverage, a nutritionist or appropriate subspecialist must indicate that long-term enteral supplementation is required to eliminate serious impact on growth and development.

Documentation

Documentation must be less than 30 days old and include:

- Specific diagnosis/medical condition related to the beneficiary's inability to take or eat food.
- Duration of need.
- Amount of calories needed per day.
- Current height and weight, as well as change over time. (For beneficiaries under 21, weight-to-height ratio.)
- Specific prescription identifying levels of individual nutrient(s) that is required in increased or restricted amounts.
- List of economic alternatives that have been tried.
- Current laboratory values for albumin or total protein (for beneficiaries age 21 and over only).

For continued use beyond 3-6 months, **the CSHCS Program requires** a report from a nutritionist or appropriate pediatric subspecialist.

PA Requirements

PA is required for all enteral formulae for oral administration.

MDCH Medicaid Provider Manual, Medical Supplier
Section 2.13A, January 1, 2009, page 30.
(Exhibit 1, page 18)

In the present case, the Department determined that that the submitted medical documentation did not meet the standards of coverage. Specifically, the Department analyst testified that illness documented in the hospital records was acute renal failure which did not meet the criteria of a chronic medical condition. The Appellant's weight and height ratios were just below the 75th and 90-97th percentiles respectively, which do

meet the criteria of height and weight ratio below the 5th percentile. Lastly, the medical documentation did not detail low percentage increase in growth pattern or trend directly related to the nutritional intake and associated diagnosis/medical condition, which is the third criteria for oral administration of enteral nutrition. The Department analyst also noted that no nutritional diagnosis was listed on the submitted nutritional assessment.

Additionally, the Department analyst testified that Medicaid policy does not cover formula to accommodate allergies. The Medicaid Provider Manual lists noncovered items in section 1.10 including "Enteral formulae to accommodate psychological or behavioral conditions, food preferences, allergies, loss of appetite, or noncompliance with a specialized diet. (*MDCH Medicaid Provider Manual, Medical Supplier, Section 1.10, January 1, 2009, page 14. Exhibit 1, page 21*)

The Appellant's mother disagrees with the Department's denial; however she did acknowledge that the prescription for this formula was originally written due to the acute renal failure. The Appellant's mother is understandably frustrated because the formula would be covered if the Appellant was being tube fed, just not for oral administration. The Appellant's mother explained that the Appellant is only able to hold a cup at this point and can not walk, talk or do most things other 8 year olds can do. She stated that the only thing going on with the Appellant at this point is nutritional deficiencies, which does cause some of the Appellant's seizures.

Based on the information submitted to the Department, the Appellant did not meet the standards of coverage for enteral nutrition. The Appellant's mother's testimony indicates that there may be additional medical documentation showing that there is a chronic medical condition and ongoing nutritional deficiency. Such documentation can always be submitted to the Department with a new Prior Authorization request for this product.

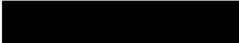
DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly denied the Appellant's request for Bright Beginnings Soy formula based upon the available information.

IT IS THEREFORE ORDERED that:

The Department's decision is **AFFIRMED**.

Colleen Lack
Administrative Law Judge
for Janet Olszewski, Director
Michigan Department of Community Health


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cc:



Date Mailed: 3/12/2010

***** 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.