

**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. 2010-16103 PA
Case No. [REDACTED]

[REDACTED]

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

After due notice, a hearing was held on [REDACTED], [REDACTED], mother and Guardian, appeared on the Appellant's behalf. [REDACTED], represented the Department. [REDACTED], appeared as a witness for the Department.

ISSUE

Did the Department properly deny the Appellant's prior authorization request for Ensure Plus and Duocal?

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 [REDACTED] year old Medicaid beneficiary.
2. On [REDACTED], the Department received the Prior Approval-Request/Authorization form from [REDACTED] requesting Ensure Plus and Duocal for the Appellant. (Department Exhibit 1 page 6)
3. The prior approval request form listed diagnoses of GERD, Cerebral Palsy, and seizure disorder. (Exhibit 1, page 6)
4. On [REDACTED], the Department sent a letter to the Appellant's provider requesting additional information to process the prior approval request. (Exhibit 1, page 8)

5. On [REDACTED], the Department received some of the requested information from [REDACTED] including an Oral Nutrition Medical Necessity Certification. (Exhibit 1, pages 7 and 9)
6. On [REDACTED] the Department issued a Notification of Denial for the Appellant's prior authorization request because the published standards of coverage were not met with the documentation submitted. (Department Exhibit 1, pages 4-5)
7. On [REDACTED] the State Office of Administrative Hearings and Rules received the hearing request filed on the Appellant's behalf by his mother. On [REDACTED] the hearing request was re-submitted to the State Office of Administrative Hearings and Rules indicating that the Appellant's mother is his legal Guardian. (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.

The Standards of Coverage for orally administered enteral nutrition for a beneficiary over 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

For beneficiaries age 21 and over:

- The beneficiary must have a medical condition that requires the unique composition of the formulae nutrients that the beneficiary is unable to obtain from food.
- The nutritional composition of the formulae represents an integral part of treatment of the specified diagnosis/medical condition.
- The beneficiary has experienced significant weight loss.

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).

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 12)

In the present case, the Department requested additional documentation to determine if the Standards of Coverage were met. (Exhibit 1, page 8) The medical supply company indicated that they were unable to supply the information requested to review the prior authorization request because they could not obtain a growth chart or progress notes from the Appellant's doctors. (Exhibit 1, page 9) However, an Oral Nutrition Medical Necessity Certification was submitted to the Department. (Exhibit 1, page 7)

Upon review of the prior authorization request and Medical Necessity Certification, the Department determined that that the submitted medical documentation did not meet the standards of coverage. The Department Analyst testified that the request was for standard formulas containing nutrients that are available in foods and that there was no indication of significant weight loss. The Department Analyst further explained that the documentation requirements were not met. The documentation submitted did not clearly indicate a specific diagnosis or medical condition related to the Appellant's inability to take or eat food. Dysphagia and the possibility of aspiration are noted in section 7 of the medical necessity certification, however the Department Analyst explained that aspiration is more likely with liquids. Additionally, the duration of need was not clarified with medical documentation and there were conflicts regarding the calorie information. The submitted information lacked height and weight changes over time, a specific prescription identifying levels of nutrients required in increased or restricted amounts, and a list of economic alternatives that have been tried. (See also Exhibit 1, pages 7 and 10)

The Appellant's mother disagrees with the Department's denial and testified she was never told additional information was needed to process the request or that the medical supply company could not obtain the information from the Appellant's doctors. The Appellant's mother stated she would have made sure the information was submitted and that she has documentation from the past year and a half, including a growth chart.

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The Appellant's mother noted that the Appellant's doctor feels that with these formulas, the Appellant is able to keep his weight up and would not need a feeding tube.

Based on the information submitted to the Department, the Appellant did not meet the standards of coverage for enteral nutrition for the reasons noted by the Department Analyst. During the hearing, the Department Analyst discussed the types of documentation and timeframes for this information that would help support a new prior authorization request for the Appellant. If she has not already done so, the Appellant's mother may wish to submit a new Prior Authorization request to the Department for enteral nutrition with additional documentation to show that the standards of coverage are met.

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 Ensure Plus and Duocal 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

cc:



Date Mailed: 04/27/2010

***** 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.