

**STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
FOR THE DEPARTMENT OF COMMUNITY HEALTH**

P.O. Box 30763, Lansing, MI 48909
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IN THE MATTER OF:

██████████

Appellant

_____ /

Docket No. 2010-2737 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 ██████████. ██████████ appeared on his own behalf. ██████████, Appeals Review Officer, represented the Department. ██████████, MDCH Office of Medical Affairs, appeared as a witness for the Department.

ISSUE

Did the Department properly deny the Appellant's request for prior authorization for permanent placement of a spinal cord stimulator?

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 enrolled since at least ██████████.
2. The Appellant is a ██████████ with a history of low back pain and lower extremity pain. (Department Exhibit 1, page 9)
3. On ██████████, the Department received a prior authorization request from the Appellant's physician for implantation of a trial spinal cord stimulator on ██████████ and planned permanent placement on ██████████. (Department Exhibit 1 pages 11-20)

4. The prior authorization (PA) request from the Appellant's doctor states in pertinent part: the Appellant has suffered with chronic low back pain for many years. Radiographic evidence reveals disk bulging at L3-L4. The Appellant has tried conservative treatments including physical therapy, ns aids, tens unit, epidural injections and neuroablation with little or no long term relief. (Department Exhibit 1, page 12)
5. The Department approved the trial spinal cord stimulator placement. (Testimony)
6. On ██████████, the Appellant underwent the trial spinal cord stimulator placement surgery. (Department Exhibit 1, pages 9-10)
7. On ██████████, the Appellant's doctor requested urgent review of the prior authorization request for the permanent placement surgery scheduled for ██████████. (Department Exhibit 1, page 7)
8. On ██████████ the Department called the Appellant's doctors office and discussed the case with the physician's assistant. The Department had requested additional information to support the requested permanent placement surgery. However, the physician's assistant explained that as a result of this physicians approach to these types of cases the requested additional evaluations were not performed. (Testimony and Department Exhibit 1 page 8)
9. On ██████████, the Appellant underwent the permanent surgical placement for the spinal cord stimulator. (Testimony)
10. On ██████████, the Department denied the prior authorization request on the basis that no records were submitted of reassessment in the office to clarify interval response to temporary trial placement. (Department Exhibit 1, pages 4-5)
11. On ██████████ the Department also sent notice of the denial to the Appellant's physician. (Department Exhibit 1, page 6)
12. On ██████████ the State Office of Administrative Hearings and Rules received the Appellant's hearing request, protesting the denial. A signed hearing request was received on ██████████. (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.

1.10 PRIOR AUTHORIZATION

Medicaid requires prior authorization (PA) to cover certain services before those services are rendered to the beneficiary. The purpose of PA is to review the medical need for certain services. It does not serve as an authorization of fees or beneficiary eligibility. Different types of services requiring PA include:

- Procedures identified as requiring PA on the procedure code databases on the MDCH website;
- Procedures/items that are normally noncovered but may be medically necessary for select beneficiaries (e.g., surgery normally cosmetic in nature, obesity surgery, off-label use drugs, etc.); and
- Referrals for elective services by out-of-state nonenrolled providers.

*MDCH Medicaid Provider Manual, Practitioner
Section, October 1, 2009, page 4.*

In the present case, the requested service code for placement of a permanent spinal cord stimulator, 63685, is listed in the MDCH procedure code database as requiring prior authorization. (Department Exhibit 1, pages 7, 11, and 23-24) The prior authorization request was denied by the Department on October 5, 2009. However, the Appellant testified that he underwent the permanent spinal cord stimulator placement surgery on ██████████. Accordingly, the Appellant's physician proceeded with the surgery without the required prior authorization from the Department for Medicaid coverage.

The Department had approved the trial placement of the spinal cord stimulator, however the Department witness testified that additional information was needed to support the request for the permanent spinal cord stimulator placement. The Department witness stated that the additional information was requested from the Appellant's doctor's office, including a neuropsychological evaluation and records of reassessment after the trial placement surgery.

On ██████████, doctor's office sent a fax requesting urgent review of the prior authorization request. (Department Exhibit 1, page 7). The Department witness testified he called the doctor's office that same date and spoke with the physician's assistant. During this call, the physician's assistant explained that no neuropsychological assessment was done and that the Appellant's doctor's approach was to have a short interval between the trial and permanent procedures with only a telephone evaluation for the patient to report the interval response after trial placement. (Department Exhibit 1, page 8)

The Appellant testified that the permanent placement surgery was moved from the original date of ██████████, so that he could go in for the requested evaluation. The Appellant testified that he attended a physical assessment on ██████████.

However, the Department witness testified that no records from a [REDACTED] assessment were received from the physician's office.

This Administrative Law Judge must uphold the Department's denial of the Appellant's request. Contrary to the prior authorization policy, the Appellant's physician performed the permanent spinal cord stimulator placement surgery before the Department made a determination on the request. Prior authorization before the service is rendered to the beneficiary was required for coverage. Additionally, the Department never received the requested additional information to support the permanent placement of the spinal cord stimulator.

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 permanent spinal cord stimulator placement.

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: [REDACTED]

Date Mailed: 1/6/2010

***** 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



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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.