

**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. 2010-31878 MSB
Case No. [REDACTED]

[REDACTED]

Appellant

_____ /

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge (ALJ) pursuant to MCL 400.9 and MCL 400.37 upon the Appellant's request for a hearing.

After due notice, a hearing was held [REDACTED]. The hearing was continued to allow the Appellant to present additional evidence, and completed on [REDACTED]. [REDACTED], appeared the Appellant's behalf. [REDACTED], represented the Department of Community Health (MDCH or Department). [REDACTED], appeared as a witness for the Department.

ISSUE

Whether the Department has properly not covered prescription copayments since [REDACTED]?

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 did not have Medicaid coverage for the month of [REDACTED]. (Department Specialist Testimony and Exhibit 1, pages 2-3)
2. The Appellant's Medicaid eligibility was established effective [REDACTED]. (Exhibit 1, page 3)

3. The Appellant also had private prescription insurance coverage. (Department Specialist Testimony and Exhibit 1, page 2)
4. The Appellant obtain prescription from ██████████ in ██████████ ██████████. (Exhibit 2, pages 3-7, Exhibit 3, pages 5, 9-11, and 13-14)
5. The Appellant was charged for all prescriptions in ██████████ and only one prescription in the subsequent months, Loratadine, on ██████████. (Exhibit 2, pages 3-7, Exhibit 3, pages 5, 9-11, and 13-14)
6. The Department has not considered payment for the prescriptions or any services the Appellant received in ██████████ because Medicaid eligibility was not established by the Department of Human Services for that month. (Exhibit 1, page 2)
7. The Appellant requested a formal, administrative hearing on ██████████. The hearing request was resubmitted on ██████████ with documentation of partial guardianship.

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.

SECTION 1 – GENERAL INFORMATION

Michigan Department of Community Health (MDCH) administers the fee-for-service (FFS) programs for Medicaid, Children’s Special Health Care Services (CSHCS), Maternity Outpatient Medical Services (MOMS), and Adult Benefits Waiver (ABW), and Plan First!. This chapter and the Michigan Pharmaceutical Product List (MPPL) comprise program policies and explain coverage and reimbursement for the services dispensed and billed by enrolled pharmacies.

Throughout this chapter the terms Medicaid and MDCH are used to refer to the Michigan Medicaid FFS, CSHCS, MOMS, ABW, and Plan First! programs unless otherwise noted.

1.1 MDCH PHARMACY BENEFITS MANAGER AND OTHER VENDOR CONTRACTORS

MDCH retains all decisions for policy, coverage, and reimbursement. However, MDCH contracts with First Health Services Corporation (FHSC) as its pharmacy benefits manager (PBM). PBM services provided include pharmacy claims payment (paper and electronic), claims instruction, prior authorization (PA), prospective drug utilization, retrospective drug utilization, clinical consultation, provider enrollment, provider information lines, and provider audits. (Refer to the Directory Appendix for PBM contact information.)

The PBM website contains the:

- Pharmacy Claims Processing Manual for Michigan Medicaid
- Michigan Pharmaceutical Product List (MPPL)
- Preferred Drug List (PDL)
- Drug Utilization Review (DUR) Meeting Notices
- Dose Optimization Program
- Pharmacy and Therapeutics (P&T) Committee Meeting Notices
- Pharmacy Forms
- Maintenance Drug List

Pharmacies may call the PBM for questions or concerns. Beneficiaries may call the PBM Beneficiary Helpline. (Refer to the Directory Appendix for contact information.)

MDCH contracts with other vendors to perform financial, program or provider audits on behalf of the State of Michigan. (Refer to the Pharmacy Resources portion of the Directory Appendix for additional information.)

*Medicaid Provider Manual, Pharmacy Section,
April 1, 2010, Page 1.*

At issue in the present case is the billing and payment for prescription copayments since ██████████. The Department has established that the Appellant was not eligible for Medicaid for the month of ██████████. (Department Specialist Testimony and Exhibit 1, pages 2-3) Accordingly, the Department has not considered payment for any services rendered to the Appellant, including prescriptions, in the month of ██████████. (Department Specialist Testimony and Exhibit 1, page 2) The Appellant's representative testified that other Medicaid services continued over the month of ██████████, despite the lack of Medicaid coverage that month. However, this does not change the Appellant's Medicaid eligibility. The Appellant does not have Medicaid eligibility for the month of ██████████. Therefore, the Department has properly not considered payment for the prescriptions she received that month.

The Appellant's representative testified that there have been issues with prescription

coverage since the Appellant's Medicaid eligibility was established effective ██████████. The evidence indicates that there was a prescription in ██████████ that the Department initially denied payment for because prior authorization was required. However, the Department subsequently approved and paid for that prescription on ██████████. (Department Specialist Testimony and Exhibit 1, page 2) The ██████████ printout indicates that the Appellant was not charged for the ██████████ prescription. Accordingly, there is no issue left to resolve with that prescription.

Upon review of the ██████████ report, the only prescription the Appellant has been charged for since ██████████, was Loratadine 10 mg tablets on ██████████. (Exhibit 3, page 10) It is possible that no claim for this prescription was submitted to the Department as the ██████████ Hearing Summary Memorandum indicates that no claims for prescriptions were received in ██████████. Further, the Michigan Pharmaceutical Product List indicates that Prior Authorization is required for the brand name drug for the 10 mg tablet or for beneficiaries 12 years and older for the 10 mg "TAB DIS LN". (Michigan Department of Community Health, Michigan Pharmaceutical Product List, July 1, 2010) The Appellant's date of birth is ██████████ according to the ██████████ printout. (Exhibit 1, page 10) Prior authorization may be required if the brand name drug was prescribed and/or due to the Appellant being over age 12.

The Department's determination that they cannot consider payment for services rendered to the Appellant in ██████████, including prescriptions, must be upheld because the Appellant does not have Medicaid eligibility for that month. However, the Appellant did have Medicaid coverage on ██████████, the date of service for the prescription for Loratadine. The Department shall investigate the ██████████ prescription for Loratadine to determine if it should be covered by Medicaid.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that it was proper for the Department to not consider payment for prescription co-payments or services rendered to the in ██████████. However, it is not clear if a claim was submitted to the Department for the ██████████, prescription for Loratidine or if prior authorization was submitted if, required.

IT IS THEREFORE ORDERED that:

[REDACTED]
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The Department's decision is **PARTIALLY REVERSED**. The Department is ordered to investigate coverage of the [REDACTED], prescription for Loratidine and issue notice of their determination.

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

cc:

[REDACTED]

Date Mailed: 7/22/2010

***** NOTICE *****

The State Office of Administrative Hearings and Rules for the Department of Community Health 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 for the Department of Community Health 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 mailing date of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the mailing date of the rehearing decision.