

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

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**IN THE MATTER OF:**

██████████,

**Appellant**

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**Docket No. 2010-35178 QHP  
Case No. ██████████**

**DECISION AND ORDER**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 42 CFR 431.200 *et seq.*, following the Appellant's request for a hearing.

After due notice, a hearing was held on ██████████. ██████████ appeared on her own behalf. Health Plan of Michigan was represented by ██████████, Director of Member Services. ██████████, Manager of Clinical Review Service/R.N.; Dr. ██████████, Medical Director of Utilization Management (UM); and ██████████, Director of Pharmacy, appeared as witnesses for Health Plan of Michigan. Health Plan of Michigan is a Department of Community Health contracted Medicaid Health Plan (MHP).

**ISSUE**

Did the MHP properly deny the Appellant's request for Xenazine?

**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 Health Plan of Michigan, an MHP.

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2. The Appellant suffers from Huntington's Chorea. (Exhibit 1, pages 9-10)
3. On [REDACTED], the MHP received a second prior authorization<sup>1</sup> request for Xenazine from the Appellant's doctor. (Exhibit 1, page 9)
4. On [REDACTED], the MHP sent the Appellant a denial notice, stating that the request for Xenazine was not authorized because the clinical information submitted did not show that the MHP's formulary requirements were met. Specifically, there was no evidence of trial and failure of at least two prior drug therapies and there were there no appropriate lab studies documenting liver function. (Exhibit 2)
5. On [REDACTED], the State Office of Administrative Hearings and Rules received the Appellant's Request for Hearing. (Exhibit 1, page 6)

**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 MHPs.

The Respondent is one of those MHPs.

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. The Contractor 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

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<sup>1</sup> The Appellant's first request was also denied. That denial was affirmed by this tribunal in Case No. 2010-26936 QHP.

consistent with State direction in accordance with the provisions of Contract Section 2.024.

*Section 1.022(E)(1), Covered Services.  
MDCH contract (Contract) with the Medicaid Health Plans,  
October 1, 2009.*

(1) The major components of the Contractor's utilization management (UM) program 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 UM activities of the Contractor must be integrated with the Contractor's QAPI program.

(2) Prior Approval Policy and Procedure

The Contractor must establish and use a written prior approval policy and procedure for UM 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 UM decisions be made by a health care professional who has appropriate clinical expertise regarding the service under review.

*Section 1.022(AA), Utilization Management, Contract,  
October 1, 2009.*

The DCH-MHP contract provisions allow prior approval procedures for UM. The MHP Manager of Clinical Review Service/R.N. testified that the formulary requirements for Xenazine include documentation of step therapy, meaning a therapeutic trial and failure of at least two prior drugs.

The Appellant disagrees with the denial and testified that Xenazine is working for her. She noted that before taking Xenazine, she was unable to talk. The Appellant acknowledged that she has not tried any of the other medications. But she explained that it is her belief, based on information provided by her physician, that Xenazine is the only drug approved by the FDA to treat Huntington's Chorea.

The MHP Medical Director of UM testified that while that statement is technically true—that Xenazine is the only FDA-approved drug for treatment of Huntington's Chorea—it is also incorrect. He explained that for several years other drugs have been used successfully to treat Huntington's Chorea, even though they have not been FDA-approved for that specific purpose. He further explained that FDA approval costs are prohibitive and there really is no need for approval once the drug is already being used for that specific purpose, as is the case here. He noted that this is not an uncommon practice. The MHP Director of Pharmacy added that the MHP's step-therapy requirement is supported by medical literature. (See Exhibit 3)

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 is allowed to require step therapy as part of the prior approval process for a medication. The Appellant has not tried any of the other medications. The MHP demonstrated that based on the information it had at the time of denial, the Appellant did not meet its criteria for approval of Xenazine.

**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 Xenazine.

**IT IS THEREFORE ORDERED** that:

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

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Kristin M. Heyse  
Administrative Law Judge  
for Janet Olszewski, Director  
Michigan Department of Community Health

[REDACTED]  
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cc:

[REDACTED]

Date Mailed: 8/12/2010

**\*\*\* 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.