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. 2010-41459 QHP

[redacted]

Appellant
[redacted]/

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 [redacted]. [redacted], RN/Clinical Liason, represented the Appellant. [redacted] Director of Member Services, represented the [redacted]., the Medicaid Health Plan (MHP). [redacted], Pharmacist, and [redacted], Clinical Pharmacist, appeared as witnesses for the MHP.

ISSUE

Did the MHP properly deny the Appellant's request for the growth hormone Genotropin?

FINDINGS OF FACT

Based on the competent, material, and substantial evidence presented, the Administrative Law Judge finds, as material fact:

1. The Appellant is currently enrolled in the Respondent MHP, [redacted]

2. The Appellant is an [redacted] Medicaid beneficiary, who has been diagnosed with panhypopituitarism, hypothyroidism, septo-optic dysplasia, and vertebral artery occlusion. (Exhibit 1, pages 13-16)

3. On [redacted], the MHP received a request for Genotropin from the Appellant's Pediatric Endocronologist, [redacted]. (Exhibit 1, page 19)

4. On [redacted], the MHP sent the Appellant a denial notice, stating that her request for Genotropin was denied because the submitted clinical documentation did not establish that all criteria for the drug had been met. Specifically, there was no documentation to support that two tests for growth hormone stimulus had been conducted, such as arginine, clonidine, glucagon, insulin, or levodopa. (Exhibit 1, pages 20-22)

5. The Appellant requested a formal administrative hearing contesting the denial on [redacted]. (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 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:

(a) Written policies with review decision criteria and procedures that conform to managed health care industry standards and processes.

(b) A formal utilization review committee directed by the Contractor's medical director to oversee the utilization review process.

(c) Sufficient resources to regularly review the effectiveness of the utilization review process and to make changes to the process as needed.

(d) An annual review and reporting of utilization review activities and outcomes/interventions from the review.

(e) 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.

As stated in the Department-MHP contract language above, the MHP must establish policy and procedure for purposes of UM. Here, the MHP witnesses testified that CVS Caremark Criteria was used to determine if the growth hormone would be authorized. More specifically, the CVS Caremark Criteria requires that the patient meet the following conditions before a growth hormone can be authorized for a neonate:

- Has randomly assessed GH level < 20 ng/mL

- Other causes of hypoglycemia have been ruled out and other treatments have been ineffective.

(Exhibit 1, page 28)

The MHP witness explained that the growth hormone in this case was denied because there was no documentation to support that two growth-hormone-stimulus tests had been conducted. (Testimony of [redacted]) The MHP's Clinical Pharmacist explained that the tests are required because a child can be diagnosed with septo-optic dysplasia but not necessarily suffer from panhypopituitarism.

The Appellant's representative testified that the required testing was not conducted on the Appellant because she was hypoglycemic at the time the diagnoses were made. It is her professional opinion that the testing is unnecessary because there are other indicators to support the panhypopituitarism diagnosis. She further opined that she believes that such testing could be harmful to the Appellant, given her hypoglycemia.

The MHP's Clinical Pharmacist disagreed with the Appellant's representative, stating that the tests could be conducted on a hypoglycemic child.

Both the MHP and the Appellant's representative were asked to submit articles to support their respective positions. The articles submitted by the MHP do support its position that growth-hormone-stimulus tests may be conducted on a hypoglycemic child, and the Appellant's representative's articles do not state otherwise.

Accordingly, the Appellant has not met her burden of proving that the MHP improperly denied her request for the growth hormone. The required testing has not been done, and the Appellant failed to prove that it cannot be done because of her hypoglycemia. However, should the Appellant have the testing done, she may re-apply for prior approval at that time.

DECISION AND ORDER

The ALJ, based on the above findings of fact and conclusions of law, decides that the MHP properly denied the Appellant's request for the growth hormone Genotropin.

IT IS THEREFORE ORDERED that:

The MHP's decision is AFFIRMED.

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

cc: [redacted]

Date Mailed: 10/4/2010

***** 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.