

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

_____ /

Docket No. 2010-7036 PA
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.*, upon the Appellant's request for a hearing.

After due notice, a hearing was held on ██████████. ██████████, appeared on behalf of Appellant. ██████████ was present. ██████████, represented the Department. ██████████, appeared as a witness for the Department.

ISSUE

Did the Department properly deny Appellant's request for prior authorization?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. Appellant is a ██████████ male Medicaid beneficiary.
2. On ██████████, the Appellant had a heart attack and was hospitalized until approximately ██████████. (Exhibit 1, Pages 3, 6, 8).
3. When Appellant was released from the hospital he was provided a ██████████ wearable cardiac defibrillator to wear until his bypass surgery on ██████████. (Exhibit 1, Page 3). Appellant's physician signed a medical order for the wearable cardiac defibrillator on ██████████, but the medical order was not submitted to Medicaid by the Appellant's physician or the durable medical equipment (DME) representative.

4. During his bypass surgery on ██████████, Appellant had an implantable defibrillator placed and no longer needed the wearable defibrillator. (Exhibit 1, Page 3).
5. On ██████████, the Department received a request for payment from ██████████/DME provider for use of the DME/wearable cardiac defibrillator between Appellant's ██████████ discharge and the ██████████ bypass surgery. (Exhibit 1, Pages 6-8). The request included the ██████████, medical order and two pages of consultation record from his hospital stay. (Exhibit 1, Pages 6-8).
6. The Department reviewed and denied the request. A Department medical doctor reviewed the request and concurred in the denial. The Department noted the lack of prior authorization and lack of specific medical documentation. (Exhibit 1, Page 4).
7. The Department sent the Appellant a Notification of Denial on ██████████. (Exhibit 1, Page 4).
8. On ██████████, the Department received Appellant's Request for Hearing. (Exhibit 1, Page 3).
9. All requests for Medicaid coverage of DME must receive prior authorization. (Exhibit 1, Page 10).

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 issue in this case is whether the Department properly applied policy for DME/wearable cardiac defibrillators for which Medicaid was being asked to pay. During the hearing, the Appellant's wife/representative testified that the Appellant's doctor mandated the wearable cardiac defibrillator between the time of ██████████ hospital discharge and the time of his bypass surgery. The Appellant's wife/representative stated that the defibrillator manufacturer/DME provider billed Appellant for the unpaid usage balance after Medicaid denied payment.

The Department established through document and testimony evidence that a wearable cardiac defibrillator is not a Medicaid-covered DME. (Exhibit 1, Pages 21-22). The Department's witness testified that Department policy required that a wearable cardiac defibrillator needed to receive prior authorization before Medicaid could pay for its use.

MDCH Medicaid Provider Manual, Medical Supplier, Section 1.7, January 1, 2010, page 7 outlines the situations where prior authorization is mandated:

1.7 PRIOR AUTHORIZATION

Prior authorization (PA) is required for certain items before the item is provided to the beneficiary or, in the case of custom-made DME or prosthetic/orthotic appliances, before the item is ordered. To determine if a specific service requires PA, refer to the Coverage Conditions and Requirements Section of this chapter and/or the MDCH Medical Supplier Database on the MDCH website.

PA will be required in the following situations:

- Services that exceed quantity/frequency limits or established fee screen.
- Medical need for an item beyond MDCH's Standards of Coverage.
- Use of a Not Otherwise Classified (NOC) code.
- More costly service for which a less costly alternative may exist.
- Procedures indicating PA is required on the MDCH Medical Supplier Database.

MDCH Medicaid Provider Manual, General Information for Providers, Section 8., January 1, 2010, page 14, outlines the Department's policy regarding prior authorization and emphasizes that it is required for services beyond those ordinarily covered by Medicaid, such as wearable cardiac defibrillators. (Exhibit 1, Page 10).

The Department established through credible evidence that a wearable cardiac defibrillator is a DME that requires prior authorization, prior authorization was not obtained for Appellant's wearable cardiac defibrillator, that the DME provider did not request payment until at least six months after Appellant's use, and that the DME provider did not attach sufficient medical documentation to authorize Medicaid coverage of the wearable cardiac defibrillator. For these reasons it was proper for the Medicaid program to not approve the DME provider's request for payment.

Regarding the concern of Appellant's wife/representative that the Appellant is being billed by the DME, if the DME provider failed to obtain prior authorization for payment, the DME provider cannot bill the Appellant or make the Appellant responsible for the payment. The *MDCH Medicaid Provider Manual, General Information for Providers, Section 9, January 1, 2010, page 17* clearly states:

...Failure of the provider to obtain authorization does not create a payment liability for the beneficiary.

(Exhibit 1, Page 13).

The Department provided sufficient evidence that it denied payment for Appellant's use of a wearable cardiac defibrillator in accordance to the Department's Medicaid policy.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly denied request for payment of Appellant's use of a wearable cardiac defibrillator.

IT IS THEREFORE ORDERED that:

The Department's decision is AFFIRMED.

Lisa K. Gigliotti
Administrative Law Judge
for Janet Olszewski, Director
Michigan Department of Community Health

cc: 

Date Mailed: 1/14/2010

***** 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 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.