

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
FOR THE DEPARTMENT OF COMMUNITY HEALTH
P.O. Box 30763, Lansing, MI 48909
(877) 833-0870; Fax: (517) 334-9505

IN THE MATTER OF:

_____,
Appellant
_____ /

Docket No. 2010-9850 PA
Case No. _____

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge (ALJ) 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 _____. The minor Appellant was represented by her mother at hearing. The Department of Community Health was represented by _____. _____ appeared as a witness on behalf of the Department. _____ appeared as a witness on behalf of the Department.

The hearing was convened at _____. The Appellant's mother was present via telephone. At approximately _____ the Appellant's mother was disconnected from the conference telephone call. This ALJ placed 3 telephone calls to her home. None of the three calls were answered. Two messages were left, along with the toll free telephone number she could return the call to. The hearing was temporarily delayed to provide opportunity for the Appellant's mother to contact the State Office of Administrative Hearings and Rules. She did not. The hearing was reconvened at _____ and completed.

ISSUE

Did the Department properly deny the Appellant's request for coverage of the supplemental nutrition powder Duo-Cal?

FINDINGS OF FACT

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

1. The Appellant is a _____ child who has been diagnosed with among other ailments, failure to thrive. She is small in size and weight.

2. The Appellant requires special feeding and a high calorie diet.
3. The medical records in evidence state the Appellant should achieve an intake of 1680 calories per day to address her medical needs.
4. The Appellant is provided a nutritional supplement called Nutren Jr, 56 oz per day. This supplement in the amount specified provides 1750 calories per day.
5. The Appellant does take food orally, by mouth during the day.
6. The Appellant's supplement supplier requested prior authorization for the second supplement, Duo-Cal on [REDACTED].
7. Following review of medical documentation of the Appellant's nutritional status and needs, as prepared by her dietician, the Department denied the request for prior authorization for Duo-Cal.
8. Thereafter, on [REDACTED], the Department sent a denial notice to the Appellant.
9. On [REDACTED], the Appellant filed a Request for Hearing with the State Office of Administrative Hearings and Rules.

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.

*MDCH Medicaid Provider Manual, Practitioner
Section, October 1, 2005, page 4.*

2.13.A Enteral Nutrition (Administered Orally)

Standards of Coverage

Enteral nutrition (administered orally) may be covered for beneficiaries under the age of 21 when:

- A chronic medical condition exists in nutritional deficiencies and a three month trial is required to prevent gastric placement.
- Supplemental to regular diet or meal replacement is required, and the beneficiary's weight-to-height ratio has fallen below the fifth percentile on standard growth grids.
- Physician documentation details low percentage increase in growth pattern or trend directly related to the nutritional intake and associated diagnosis/medical condition.

For CHSCS coverage, a nutritionist or appropriate subspecialist must indicate that long-term enteral supplementation is required to eliminate serious impact on growth and development.

For beneficiaries age 21 and over:

- The beneficiary must have a medical condition that requires the unique composition of the formulae nutrients that the beneficiary is unable to obtain from food
- The nutritional composition of the formulae represents an integral part of treatment of the specified diagnosis/medical condition.
- The beneficiary has experienced significant weight loss.

Documentation

Documentation must be less than 30 days old and include:

- Specific diagnosis/medical condition related to the beneficiary's inability to take or eat food
- Duration of need
- Amount of calories needed per day
- Current height and weight, as well as change over time. (for beneficiaries under 21, weight-to-height ratio)
- Specific prescription identifying levels of individual nutrient(s) that is required in increased or restricted amounts.
- List of economic alternatives that have been tried
- Current laboratory values for albumin or total protein (for beneficiaries age 21 and over only).

For continued use beyond 3-6 months, the CHSCS Program requires a report from a nutritionist or appropriate pediatric subspecialist.

PA Requirements

PA is required for all enteral formulae for oral administration.

This ALJ did not have any testimony or evidence presented by the Appellant's mother at hearing.

[REDACTED]
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The Decision and Order is issued after consideration of all evidence presented, however, it is explicitly acknowledged that the Appellant's mother did not participate in the entire hearing, despite having been connected at the outset of the hearing. Based upon the material evidence in the record, the Appellant's caloric needs are being addressed with the nutritional supplement she is getting without prior authorization and her intake of food by mouth during the day. There is no documentation she has had a change in her caloric intake needs. No medical necessity for the additional supplement is evidenced in the record, therefore the Department's denial is sustained. Based on the above findings of fact and conclusions of law, I find the Department's denial of coverage for the Duo-Cal was appropriate.

IT IS THEREFORE ORDERED that:

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

Jennifer Isiogu
Administrative Law Judge
for Janet Olszewski, Director
Michigan Department of Community Health

cc:

[REDACTED]

Date Mailed: 2/1/2010

***** 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 60 days of the mailing date of the Decision and Order or, if a timely request for rehearing was made, within 60 days of the mailing date of the rehearing decision.