

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF COMMUNITY HEALTH**

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IN THE MATTER OF:

Docket No. 2011-15310 QHP
Case No. 5850157

████████████████████

Appellant

_____ /

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 ██████████. The Appellant's ██████████ appeared on the Appellant's behalf. ██████████, represented ██████████ the Medicaid Health Plan (MHP). ██████████, and ██████████, appeared as witnesses for the MHP.

ISSUE

Did the MHP properly deny the Appellant's request for surgical keloid scar removal?

FINDINGS OF FACT

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

1. The Appellant is ██████████ Medicaid beneficiary who is currently enrolled in the Respondent MHP, ██████████.
2. On ██████████, the MHP received a request for removal of a "massive" left earlobe keloid scar from the Appellant's physician. The Appellant's physician noted that, at that time, the keloid was approximately 6 by 4 centimeters in size. (Exhibit 1, page 4)
3. The Appellant had the keloid removed in the same location in ██████████. The Appellant's physician noted the possibility of recurrence, but still recommended a second removal followed by radiation. (Exhibit 1, pages 8 and 16-17)
4. On ██████████, the MHP sent the Appellant a denial notice, stating that the request for keloid excision was denied for the following reasons: (1) the keloid formation did not arise from a medically necessary procedure; (2)

there was no evidence that the keloid is due to excision of lesion and restoration of body form following accidental injury; (3) the lesion is not suspicious of malignancy; (4) there was no documentation submitted to suggest that the lesion causes infection, bleeding, and inflammation at the site; (5) no documentation was submitted to support sustained clinical improvement as an expected outcome with elimination of reoccurrence; and (6) there was no evidence that the keloid is a result of neoplastic surgery or secondary to burn scars. (Exhibit 1, page 28)

5. On ██████████, a formal, administrative hearing was requested on the Appellant's behalf contesting the denial. (Exhibit 2, page 1)

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.*

Under its contract with the Department, an MHP may devise criterion for coverage of medically necessary services, as long as those criterion do not effectively avoid providing medically necessary services. An MHP must also provide its members with the same or similar services or medical equipment to which fee-for-service beneficiaries would otherwise be entitled under the Medicaid Provider Manual.

Fee-for-Service Medicaid beneficiaries have limited access to cosmetic surgical procedures. Keloid removal surgery falls within the Medicaid Provider Manual policy

governing cosmetic procedures, set forth below:

13.2 COSMETIC SURGERY

Medicaid only covers cosmetic surgery if PA has been obtained. The physician may request PA if any of the following exist:

- The condition interferes with employment.
- It causes significant disability or psychological trauma (as documented by psychiatric evaluation).
- It is a component of a program of reconstructive surgery for congenital deformity or trauma.
- It contributes to a major health problem.

The physician must identify the specific reasons any of the above criteria are met in the PA request.

*Michigan Department of Community Health
Medicaid Provider Manual; Practitioner
Version Date: October 1, 2010
Page 65*

The DCH-MHP contract provisions allow prior approval procedures for UM purposes. The MHP witnesses explained that for keloid removal surgery, the MHP requires prior approval. The MHP's policy is based on nationally developed and internally adopted criteria. (Exhibit 1, pages 33-34) The MHP's policy contains both administrative and clinical criteria:

Administrative Criteria

1. THC's Medical Director must prior approve
2. A referral from member's PCP is required along with supporting medical documentation
3. Supporting medical documentation must include member's history, size of the lesion, location, current symptoms along with duration and severity, and treatment(s) to date with results
4. Requested service must be determined to be medically necessary and not for cosmetic purposes (to improve appearance without restoring bodily function or correcting physical impairment)
5. A dermatology or plastic surgery consultation is required

6. Medical documentation must demonstrate sustained clinical improvement is the expected outcome with elimination of reoccurrence
7. Member must have current eligibility on date of service
8. Procedure must be ordered, arranged, and performed by a THC contracted provider
9. Photograph (preferably color) of keloid(s) to be removed

Clinical Criteria

1. Keloid formation is due to complications arising from a medically necessary service when the treatment of the complication itself is medically necessary (e.g. major surgery such as organ transplantation and the development of a lesion secondary to host vs. graft syndrome)
2. Excision of lesion and restoration of body form following an accidental injury
3. Lesion is suspicious of a malignancy
4. Lesion causes infection, bleeding, and inflammation at site
5. Keloid is a result of neoplastic surgery (e.g. hypertrophic keloid scar formation due to radiation therapy to a specific body part)
6. Keloid formation secondary to burn scars

(Exhibit 1, pages 33-34 [internal footnotes omitted])

The MHP determined that keloid excision in this case was not medically necessary. Specifically, there was no documentation submitted to demonstrate that sustained clinical improvement is the expected outcome with elimination of reoccurrence. The MHP's ██████████ explained that there is a high probability that the keloid will return and be larger if a second removal is attempted. He raised several concerns based on the outcomes of keloid removal for other beneficiaries. However, this Administrative Law Judge can only review the denial under the applicable policies. The MHP further asserted that its criteria were not met in this case because no documentation was submitted at the time the decision was made to support that the keloid causes infection, bleeding, or inflammation.

The Appellant's [REDACTED] disagrees with the denial and testified that the Appellant's keloid is even bigger now than it was when the prior-authorization request was submitted. She stated that the keloid has tripled in size, it is not cosmetic, and it continues to be painful to the Appellant. The Appellant's [REDACTED] testified that the keloid throbs because it has veins running through it. She further testified that the keloid must be dressed because it is splitting open, it weeps, and it drips blood.

While this Administrative Law Judge sympathizes with the Appellant's situation, the documentation submitted with the request did not establish that the Appellant meets the criteria for keloid removal. There was no documentation to support sustained clinical improvement as the expected outcome with elimination of reoccurrence. In addition, at the time of the request, there was no evidence that the keloid causes infection, bleeding, or inflammation. Accordingly, the MHP's denial was proper. However, the Appellant may re-apply for prior approval at any time with additional documentation.

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 surgical keloid scar removal.

IT IS THEREFORE ORDERED that:

The MHP's decision is AFFIRMED.

Kristin M. Heyse
Administrative Law Judge
for Olga Dazzo, Director
Michigan Department of Community Health

cc: [REDACTED]

Date Mailed: 4/26/2011

***** NOTICE *****

The Michigan Administrative Hearing System 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 Michigan Administrative Hearing System 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.