

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
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. 2011-34324 PAM

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 ██████████. ██████████, the Appellant, appeared on her own behalf. ██████████, Appeals Review Manager, represented the Department. ██████████, RN, PACER Project Manager with ██████████, appeared as a witness for the Department. ██████████ is contracted by the Department to conduct telephonic/electronic authorization of inpatient services (PACER), selected durable medical equipment and medical supplies (DME/MS) and Ventilator Dependant Care Unit (VDCU) admissions and continued stays for Fee-For-Service Medicaid and Children's Special Health Care beneficiaries.

ISSUE

Did the Department properly deny the Appellant's prior authorization request for ██████████ High Protein 4 cans/day?

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 ██████████ year old Medicaid beneficiary.
2. On ██████████, ██████████ received a telephonic request from the Appellant's physician's office requesting ██████████ High Protein 4 cans/day (960 cl/day) for the Appellant. Diagnoses of gastroparesis, failure to thrive, as well as meat and dietary protein intolerance were reported. As of ██████████, the Appellant's height was 5 ft 1.5 in, weight was 126 lbs and her BMI was 23.42. (Exhibit 1, page 5)

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3. On [REDACTED], the Appellant's doctor's office called [REDACTED] back with additional information, including a weight history of 129 lbs in [REDACTED], 154 lbs in [REDACTED], and 124 lbs in [REDACTED]. (Exhibit 1, page 5)
4. On [REDACTED], after unsuccessful attempts to contact the Appellant's physician for additional information, the prior authorization request was denied by the physician reviewer. (Exhibit 1, page 5)
5. On [REDACTED], the Appellant's doctors office was contacted by telephone regarding the determination as well as reconsideration and appeal process. (Exhibit 1, page 5)
6. On [REDACTED], an Adequate Action Notice was also mailed to the Appellant indicating the request for [REDACTED] High Protein 4 cans/day was denied. (Exhibit 1, page 6)
7. On [REDACTED], the Appellant's doctor's office contacted [REDACTED] requesting reconsideration. (Exhibit 1, page 5)
8. On [REDACTED], the Appellant's doctor faxed additional documentation to [REDACTED] for the reconsideration. (Exhibit 2)
9. On [REDACTED], the physician review determined that requested product was medically unnecessary. (Exhibit 1, page 5)
10. On [REDACTED], [REDACTED] issued a letter to the Appellant's doctor indicating that the previous [REDACTED] determination was upheld on reconsideration. (Exhibit 1, page 7)
11. On [REDACTED], the Appellant's Request for Hearing contesting the denial was received.

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 Standards of Coverage for orally administered enteral nutrition for a beneficiary over age 21 can be found in the Medical Supplier section of the Medicaid Provider Manual:

2.13.A. ENTERAL NUTRITION (ADMINISTERED ORALLY)

Standards of Coverage

For beneficiaries age 21 and over:

- The beneficiary must have a medical condition that requires the unique composition of the formula nutrients that the beneficiary is unable to obtain from food.
- The nutritional composition of the formula 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 CHCS Program requires a report from a nutritionist or appropriate pediatric subspecialist.

PA Requirements

PA is required for all enteral formula for oral administration.

*MDCH Medicaid Provider Manual,
Medical Supplier Section 2.13A,
April 1, 2011, page 32.
(Exhibit 1, page 8)*

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In the present case, the Department determined that that the submitted medical documentation did not meet the standards of coverage based on the information provided from the doctor's office by phone and the faxed documentation. The second physician review note states:

It appears pt is using supplement to control wgt. Has lost 80# on it before. Should be able to come up w/diet having appropriate protein and fiber. Pt also may need add'l fluids – getting about 32 ounces in Boost- may be reason for improve constipation. Can use stool softeners as well without stressing Gut. Med unnecessary. (Exhibit 1, page 5)

The Appellant disagrees with the denial and testified that all the information was incorrect. She stated that she has gastroparesis, is unable to digest food, and has been on ██████████ since she saw a specialist in ██████████ around ██████████ or ██████████. The Appellant testified that she lost 80 lbs in a three month period and almost died. She also reported a 20 lb weight loss in a two week period. The Appellant reported being prescribed 4 cans/day, which was increased to 6 cans/day for her pregnancy. She indicated the ██████████ was then cancelled. Due to limited income, she can not purchase the ██████████ herself. The Appellant indicated that she can not have fresh produce, only canned vegetables. She further explained that when she eats meat, her colon backs up and she has to go to the hospital. The Appellant stated that she can eat canned foods, yogurt, eggs, and one portion of fish or chicken the size of a deck of cards once per week.

Based on the information submitted to ██████████, the Appellant did not meet the standards of coverage for enteral nutrition. The Appellant's diagnosis was provided by her doctor and considered by ██████████. However, the documentation indicates that the Appellant's usual weight range is around 124-129 lbs, which is a high normal BMI. The Appellant was within that range, specifically 126 lbs, at the time of the ██████████ prior authorization request. (Exhibit 1, page 5) While there was a higher weight, 154 lbs in ██████████, it appears this was shortly after a pregnancy. (Exhibit 1, page 5, Exhibit 2, pages 2 and 10) The Appellant did not meet the significant weight loss criteria in the Medicaid policy Standards of Coverage for enteral nutrition based on the submitted documentation.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly denied the Appellant's request for ██████████ High Protein 4 cans/day based upon the available information.

[REDACTED]
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IT IS THEREFORE ORDERED that:

The Department's decision is AFFIRMED.

Colleen Lack
Administrative Law Judge
for Olga Dazzo, Director
Michigan Department of Community Health

cc: [REDACTED]

Date Mailed: 8/19/2011

***** 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.