

**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. 2011-4919 QHP
Case No. 2107383**

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 ██████████. ██████████ appeared on his own behalf. ██████████ was represented by ██████████ and ██████████ appeared as witnesses for ██████████ is a Department of Community Health contracted Medicaid Health Plan (MHP).

ISSUE

Did the MHP properly deny the Appellant's request for Percocet 7.5/500mg?

FINDINGS OF FACT

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

1. The Appellant is a Medicaid beneficiary who is currently enrolled in ██████████, an MHP.
2. The Appellant suffers from low back pain. (Exhibit 2, pages 4-6)
3. On ██████████, the MHP received a prior-authorization request for Percocet 7.5/500mg from the Appellant's doctor. (Exhibit 2, page 3)

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4. The prior-authorization request was reviewed by a pharmacist at the MHP. It was determined that the requested drug was not on the MHP's formulary. (Testimony of [REDACTED])
5. On [REDACTED], the MHP sent the Appellant a denial notice, stating that his request for Percocet 7.5/500mg was not authorized because that dosage of Percocet is not on the MHP's formulary and other formulary alternatives are available to treat the Appellant's condition. (Exhibit 1, page 2)
6. On [REDACTED], the State Office of Administrative Hearings and Rules received the Appellant's Request for Hearing.

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:

- Written policies with review decision criteria and procedures that conform to managed health care industry standards and processes.
- A formal utilization review committee directed by the Contractor's medical director to oversee the utilization review process.
- Sufficient resources to regularly review the effectiveness of the utilization review process and to make changes to the process as needed.
- An annual review and reporting of utilization review activities and outcomes/interventions from the review.
- 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.*

The DCH-MHP contract provisions allow prior-approval procedures for utilization management purposes. The MHP's Director of Pharmacy testified that the Appellant's prior-authorization request for Percocet 7.5/500mg was denied because the medical-exception criteria were not met. The dosage of Percocet requested is not a covered benefit under the MHP's formulary. (Testimony of ██████████) The medical-exception policy requires the member to provide documentation that he tried and failed two formulary alternatives or documentation that he has an allergy or intolerance to a formulary agent before consideration of a non-formulary medication. (Exhibit 1, pages 4-6) There are formulary alternatives available in this case, and the MHP received no

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documentation to support that the Appellant has tried two of them and that they have failed.

The Appellant disagrees with the denial and testified that he needs the requested dosage of Percocet because the formulary alternative that he has tried—Vicodin—does not relieve his pain.

The MHP's formulary and medication prior-approval process is consistent with Medicaid policy and allowable under the DCH-MHP contract provisions. The requested medication is not on the MHP's formulary and the Appellant has not met the medical-exception criteria. Accordingly, the MHP's denial in this case was proper.

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 Percocet 7.5/500 mg.

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:



Date Mailed: 2/1/2011

***** 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.