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:

[redacted]

Docket No. 2011-50152 QHP
Case No. [redacted]

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.,* upon the Appellant's request for a hearing.

After due notice, a hearing was held on [redacted]. The Appellant, [redacted] appeared on his own behalf.

[redacted] was represented by [redacted], Appeals Coordinator. [redacted] Medical Director, appeared as a witness for [redacted] is a Department of Community Health contracted Medicaid Health Plan.

ISSUE

Did the Medicaid Health Plan properly deny the Appellant's request for an insulin pump?

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 [redacted] year-old Medicaid beneficiary whose diagnoses include Diabetes Mellitus, GERD, COPD and Bipolar disorder. (Exhibit 1, pages 22-25)

2. On [redacted], the Appellant was evaluated at the [redacted]. [redacted], Nurse Practitioner concluded in a [redacted], evaluation that the Appellant was not matching his insulin dose to his food and was not complying with his treatment plan.

3. On [redacted] received the Appellant's prior authorization request for an Insulin Pump from [redacted]. The Appellant's physician's office Nurse Practitioner, [redacted], initiated the request. (Exhibit 1, page 11)

4. On [redacted] sent the Appellant an Adequate Action Notice which informed the Appellant that his request for an insulin pump was denied. The reason given in the notice for the denial was the Appellant's noncompliance with his physician ordered treatment program for the Appellant's diabetes. (Exhibit 1, page 2)

5. The Appellant admitted in his testimony that he was noncompliant with his treatment before the prior authorization request was submitted but believes that he is now compliant.

6. On [redacted], the Michigan Administrative Hearing System 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 Michigan Department of Community Health (Department or MDCH) 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 Medicaid Health Plans.

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)(1) and (2),
Utilization Management, Contract,
October 1, 2009.

The following facts are not in dispute. The Appellant is a [redacted] year-old Medicaid beneficiary whose diagnoses include: Diabetes Mellitus, GERD, COPD and Bipolar disorder. (Exhibit 1, pages 22-25)

On [redacted], the Appellant was evaluated at the [redacted]. [redacted], Nurse Practitioner concluded in a [redacted], evaluation that the Appellant was not matching his insulin dose to his food and was noncompliant with his treatment program. On [redacted] received the Appellant's prior authorization request for an insulin pump from [redacted] The Appellant's physician's office Nurse Practitioner, [redacted], initiated the request. [redacted], Medical Director, reviewed the prior authorization request and all supporting medical documentation and concluded that the Appellant was noncompliant with his physician ordered treatment plan and therefore did not meet coverage criteria for an insulin pump. The Appellant admitted in his testimony that he was not complying with his treatment plan before he submitted his prior authorization request.

[redacted] indicated in the [redacted], denial notice that the Appellant's request was denied because he did not meet the Michigan Medicaid Provider Manual (MPM) coverage criteria for an insulin pump. The MPM, Medical Supplier chapter, Section 1.10 provides in pertinent part:

> Items that are not covered by Medicaid include, but are not limited to:
>
> …Items for a beneficiary who is non-compliant with a physician's plan of care (or) items ordered for the purpose of solving problems related to noncompliance (e.g., insulin pump)…

In support of its denial [redacted] provided a [redacted], Clinic Initial Evaluation completed by [redacted], Nurse Practitioner. [redacted] concluded in the evaluation that the Appellant was not matching his insulin to his food intake nor calculating carbohydrates consistently and correctly. During the hearing the Appellant was asked if he had reviewed [redacted] evaluation and whether or not he agreed with the evaluation. The Appellant testified that he had read the report and although he agreed with the evaluation he is now complying with his treatment plan.

The evidence presented shows that [redacted] denied the Appellant's prior authorization request. [redacted] properly denied the Appellant's request because the Appellant was noncompliant with his treatment plan and as a result did not meet MPM insulin pump coverage criteria. It is possible that subsequent to the Appellant's request and [redacted] denial that the Appellant became compliant with his treatment plan. However, those events would have occurred after [redacted] denied the request and evidence of compliance was not provided to [redacted].

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that that Molina Healthcare of Michigan properly denied the Appellant's request for an insulin pump.

IT IS THEREFORE ORDERED that:

The Medicaid Health Plan's decision is AFFIRMED.

Martin D. Snider
Administrative Law Judge
for Olga Dazzo, Director
Michigan Department of Community Health

cc: [redacted]

Date Mailed: 10/13/2011

***** 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.