

**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. 2011-6298 QHP
Case No. 62518030

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 on ██████████. The Appellant ██████████, appeared on his own behalf. ██████████, represented ██████████, the Medicaid Health Plan (MHP). ██████████ appeared as a witness for the MHP.

ISSUE

Did the MHP properly deny the Appellant's request for a septoplasty?

FINDINGS OF FACT

Based upon the competent, material, and substantial evidence presented, I find, as material fact:

1. The Appellant is ██████████ Medicaid beneficiary who is currently enrolled in the Respondent MHP, ██████████.
2. On ██████████, the MHP received a prior authorization request for a septoplasty from the Appellant's physician. The Appellant's physician noted a diagnosis of deviated septum hypertrophy of turbinates. (Exhibit A)
3. The MHP utilizes the Milliman Care Guidelines when reviewing prior authorization requests for septoplasty. (Exhibit C)
4. On ██████████, the MHP sent the Appellant a denial notice, stating that the request for septoplasty does not meet the criteria for approval based on a review of the information provided. (Exhibit B, page 1)
5. On ██████████, the MHP sent the Appellant's physician a denial notice, stating that the request for septoplasty does not meet the criteria for approval based on a review of the information provided. (Exhibit B, page 2)

6. The MHP has since requested additional information from the Appellant's physician to support the medical necessity for the requested septoplasty procedure. The Appellant's physician has not provided the needed information. (██████████ Testimony)
7. On ██████████, the Appellant requested a formal, administrative hearing contesting the denial.

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 surgical procedures. septoplasty surgery falls within the Medicaid Provider Manual policy governing general surgery, set forth below:

SECTION 12 – SURGERY – GENERAL

Medicaid covers medically necessary surgical procedures.

*Michigan Department of Community Health
Medicaid Provider Manual; Practitioner
Version Date: October 1, 2010
Page 60*

The DCH-MHP contract provisions allow prior approval procedures for UM purposes. The MHP representative explained that for septoplasty surgery, the MHP requires prior approval. The MHP utilizes the Milliman Care Guidelines for septoplasty in reviewing prior authorization requests. (Exhibit C) The Milliman Care Guidelines include clinical indications for this procedure:

Clinical Indications for Procedure

- Septoplasty may be indicated for **ALL** of the following:
 - Symptoms of nasal obstruction adversely affecting quality of life; examples include:
 - Sleep-disordered breathing
 - Sinusitis
 - Rhinitis
 - Nasal Polyps
 - Significant septal deviation or septal spurring evident on physical examination
 - Patient has received maximum medical treatment for symptoms; examples include:
 - Several antibiotic courses for rhinosinusitis
 - Intranasal steroids
 - Oral Steroids
 - Elimination of rebound congestion from overuse of nasal decongestant spray
 - Nasal lavage

- Thorough allergy assessment and treatment
- Continuous positive airway pressure trial

(Exhibit C, page 2)

The MHP determined that the Milliman Care Guidelines criteria were not met with the documentation submitted with the prior authorization request. Specifically, there has been no documentation provided regarding how this condition affects the Appellant's activities of daily living, any antibiotic or steroid therapies, an allergy workup or quantification of nasal septal deviation. (Hearing Summary page 2 and [REDACTED] Testimony) The [REDACTED] further testified that subsequent to the denial, the MHP has called the Appellant's physician's office requesting additional information. The Appellant's physician's office has not yet submitted any additional medical documentation. [REDACTED] Testimony)

The Appellant testified that he was not aware his physician did not follow through with providing the needed additional information.

While this ALJ sympathizes with the Appellant's situation, the documentation provided with the prior authorization request does not support that he has met the criteria for prior approval of septoplasty surgery. Accordingly, the MHP's denial was proper. The Appellant may re-apply for prior approval at any time should he obtain additional supporting documentation.

DECISION AND ORDER

The ALJ, based on the above findings of fact and conclusions of law, decides that the MHP properly denied the Appellant's request for a septoplasty.


IT IS THEREFORE ORDERED that:

The MHP's decision is AFFIRMED.

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

cc: [REDACTED]

Date Mailed: 2/10/2011


Docket No. 2011-6298 QHP
Decision and Order

***** 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.