

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

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IN THE MATTER OF:

██████████,

Appellant

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Docket No. 2011-33970 QHP

Case No. ██████████

**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 ██████████. ██████████, the Appellant, appeared on his own behalf. ██████████, Appeals Coordinator, represented ██████████, a Medicaid Health Plan (MHP).

**ISSUE**

Did the MHP properly deny the Appellant's request for Cialis?

**FINDINGS OF FACT**

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

1. The Appellant is a ██████ year old Medicaid beneficiary who is currently enrolled in the ██████████, a MHP.
2. The Appellant has been diagnosed with erectile dysfunction. (Exhibit A)
3. On ██████████, the MHP received a request from the Appellant's physician for prior authorization of Cialis to treat the diagnosis of erectile dysfunction. (Exhibit A)
4. The Appellant asserted that he also has high blood pressure, which is better regulated with Cialis in addition to his other medications for hypertension. (Exhibit C and Appellant Testimony)
5. The Food and Drug Administration (FDA) has not approved Cialis for the treatment of hypertension. (Appeals Coordinator Testimony)

6. Medicaid policy does not allow for the coverage of agents used for treatment of sexual or erectile dysfunction. *Medicaid Provider Manual, Pharmacy Chapter, January 1, 2011, page 12.*
7. On ██████████, the MHP sent the Appellant a denial notice, stating that the medications to treat erectile dysfunction are not a covered benefit under Medicaid Health Plans. A denial notice was also sent to the Appellant's doctor. (Exhibit B)
8. The Appellant requested a formal, administrative hearing contesting the denial on ██████████. (Exhibit C)

### **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.*

The DCH-MHP contract provisions allow prior approval procedures for utilization management purposes. The MHP's Appeals Coordinator testified that the Appellant's prior-authorization request for Cialis was denied because medications used for erectile dysfunction are not a covered benefit. The MHP provided documentation of a December 29, 2005, policy bulletin addressing the termination of sexual or erectile dysfunction drug coverage for Medicaid beneficiaries. (Exhibit B, page 3)

The Appellant asserted that he also has high blood pressure, which is better regulated with Cialis in addition to his other medications for hypertension. (Exhibit C and Appellant Testimony) However, there is no documentation of a diagnosis of high blood pressure or

that this medication was prescribed to treat hypertension. Rather, the Request for Prior Authorization completed by the Appellant's doctors office indicated that erectile dysfunction was the diagnosis for use of the medication requested, Cialis. Additionally, the Appeals Coordinator testified that Cialis has not been approved by the FDA to treat hypertension.

Section 6 of the Pharmacy chapter of the Medicaid Provider Manual, as effective January 1, 2011, addresses general non-covered services. A listing of drug categories that are not covered as a benefit includes "Agents used for treatment of sexual or erectile dysfunction." *Medicaid Provider Manual, Pharmacy Chapter, January 1, 2011, page 12.* Accordingly, the MHP's denial of the Appellant's prior authorization request for Cialis to treat erectile dysfunction is upheld.

**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 Cialis.

**IT IS THEREFORE ORDERED** that:

The MHP's decision is **AFFIRMED**.

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

cc: [REDACTED]

Date Mailed: 8/16/2011

**\*\*\* 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.