

**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:

Docket No. 2011-50155 QHP
Case No. [REDACTED]

[REDACTED],

Appellant

_____ /

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 [REDACTED]. The Appellant, [REDACTED], appeared on her own behalf. [REDACTED] Appeals Coordinator, represented [REDACTED], the Medicaid Health Plan (hereinafter MHP). [REDACTED], Chief Medical Officer, appeared as a witness for the MHP.

ISSUE

Did the MHP properly deny the Appellant's request for right breast-reduction surgery?

FINDINGS OF FACT

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

1. The Appellant is an [REDACTED]-year-old female Medicaid beneficiary who is currently enrolled in the Respondent MHP, Molina Healthcare of Michigan.
2. On [REDACTED], the MHP received a request for right breast-reduction surgery from the Appellant's physician. The Appellant's physician noted that the Appellant has left breast micromastia and breast asymmetry and would benefit from right breast reduction. (Exhibit 1, pages 13-15)
3. On [REDACTED], the MHP sent the Appellant a denial notice, stating that the request for right breast-reduction surgery was not authorized under the [REDACTED] Utilization Guideline because the notes submitted show the Appellant is complaining her right breast is larger than the left, but there was no other clinical documentation sent to review for

medical necessity. (Exhibit 1, page 2)

4. The Appellant requested a formal, administrative hearing contesting the denial on [REDACTED].

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 Medicaid Health Plans.

The Respondent is one of those Medicaid Health Plans.

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. Contractors 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 1-Z.

*Article II-G, Scope of Comprehensive Benefit Package.
MDCH contract (Contract) with the Medicaid Health Plans,
September 30, 2004.*

The major components of the Contractor's utilization management plan 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.

The Contractor must establish and use a written prior approval policy and procedure for utilization management 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 utilization management decisions be made by a health care professional who has appropriate clinical expertise regarding the service under review.

*Article II-P, Utilization Management, Contract,
September 30, 2004.*

As stated in the Department-MHP contract language above, a MHP, "must operate consistent with all applicable Medicaid Provider Manuals and publications for coverages and limitations." The pertinent sections of the Michigan Medicaid Provider Manual (MPM) states:

SECTION 12 – SURGERY – GENERAL

Medicaid covers medically necessary surgical procedures.

*Michigan Department of Community Health
Medicaid Provider Manual;
Practitioner Version Date: July 1, 2011, Page 59*

13.2 COSMETIC SURGERY

Medicaid only covers cosmetic surgery if PA has been obtained. The physician may request PA if any of the following exist:

- The condition interferes with employment.

- It causes significant disability or psychological trauma (as documented by psychiatric evaluation).
- It is a component of a program of reconstructive surgery for congenital deformity or trauma.
- It contributes to a major health problem.

The physician must identify the specific reasons any of the above criteria are met in the PA request.

*Michigan Department of Community Health
Medicaid Provider Manual;
Practitioner Version Date: July 1, 2011, Page 64*

Under the DCH-MHP contract provisions, an MHP may devise their own criterion for coverage of medically necessary services, as long as those criterion do not effectively avoid providing medically necessary services.

The MHP utilized the ██████████ Utilization Guideline for Reduction Mammoplasty (Utilization Guideline) when reviewing the Appellant's prior authorization request:

██████████ considers breast reduction surgery medically necessary for non-cosmetic indications for women age 18 or older, or for whom growth is complete when all of the following criteria are met:

1. Member has persistent symptoms in at least two (2) of the anatomical body areas below, affecting daily activities for at least one (1) year:
 - Pain in upper back
 - Pain in neck
 - Pain in shoulders
 - Headaches
 - Painful kyphosis documented by x-rays
 - Pain / discomfort / ulceration from bra straps cutting into shoulders
 - **Symptoms which are unresponsive to a doctor's documented trail of at least three (3) months of any or all of the following:**
 - Supportive devices (e.g., proper bra support, wide bra straps)
 - Analgesic/NSAIDs interventions
 - Physical therapy/exercise/posturing maneuvers

2. All of the following criteria are met:
 - Photographic documentation confirms severe breast hypertrophy and shoulder grooving; and
 - Member has undergone an evaluation by an appropriate medical doctor (ex: PCP, FP, IM, General Surgeon, Physiatrist, Plastic Surgeon, etc), other than the one performing the surgery, who has determined that all of the following criteria are met:
 - There is a reasonable likelihood that member's symptoms are primarily due to macromastia; and
 - Reduction Mammoplasty is likely to result in improvement of chronic pain; and
 - Women 40 years of age or older are required to have a mammogram that was negative for cancer performed within the year prior to the date of the planned reduction mammoplasty.
3. The surgeon estimates that at least the following amounts (in grams) of breast tissue, not fatty tissue, will be removed from each breast, based on the member's body surface area. Molina Healthcare utilizes the Mosteller formula to calculate body surface area. (Mosteller Formula and chart omitted by ALJ)
4. Must Reference benefit plan.
5. Medical Director review is required.

Contraindication and Cautions:

Exclusion:

Chronic intertrigo, eczema, dermatitis, and/or ulceration in the infra-mammary fold in and of itself are not considered medically necessary indications for reduction mammoplasty. The condition not only must be unresponsive to dermatological treatments (e.g., good skin hygiene, adequate nutrition) for a period of six (6) months or longer, but also must satisfy criteria stated in the first two (2) criteria above.

(Exhibit 1, pages 6-10)

These criteria are consistent with the Medicaid standards of coverage for cosmetic surgery, do not effectively avoid providing medically necessary services and are allowable under the DCH-MHP contract provisions.

The MHP determined that the documentation submitted for the prior authorization request did not meet the Utilization Guideline criteria. Specifically, there is documentation of the Appellant's complaint of breast asymmetry, but no clinical information to review for medical necessity. (Exhibit 1, page 2)

The Appellant testified that the pictures show the size difference, her neck and shoulders hurt, she can not wear things, and people make fun of her. The Appellant indicated she told her family doctor about her neck hurting sometimes, and he referred her to the surgeon. (Appellant Testimony) However, this information was not documented in the materials submitted for prior authorization.

The documentation provided with the prior authorization request does not establish that the Appellant has met the criteria for prior approval of breast-reduction surgery. Medical necessity of the requested procedure was not established based on the information available to the MHP when the reviewed the Appellant's prior authorization request. Accordingly, the MHP's denial was proper based on the information available at that time. The Appellant can re-submit for prior approval at any time with 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 right breast-reduction surgery based on the available information.

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: 

Date Mailed: 11/3/2011

***** 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.