

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

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IN THE MATTER OF:

██████████,

Appellant

Docket No. 2012-13657 PA

Case No. ██████████

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; MSA 16.409 and MCL 400.37; MSA 16.437 upon the Appellant's request for a hearing appealing the Department's decision to deny Appellant's request for prior authorization of gastric bypass surgery.

After due notice, a hearing was held on ██████████. The Appellant appeared without representation. She had no witnesses. ██████████, Appeals Review Officer, represented the Department. Her witness was ██████████, M.D., Chief Medical Officer/MSA.

ISSUE

Did the Department properly deny Appellant's request for gastric bypass surgery?

FINDINGS OF FACT

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

1. At the time of her request for gastric bypass surgery, the Appellant was a FFS Medicaid beneficiary. (Appellant's Exhibit #1)
2. The Appellant is a ██████-year-old female with a BMI of 44. She has no known life threatening maladies. (Department's Exhibit A, p. 8)
3. On ██████████, the Department/PRD received a PA from ██████████ [██████████, R.N.] seeking authorization for gastric bypass surgery for the Appellant. (Department's Exhibit A, pp. 2, 8, 9)

4. On [REDACTED], the Appellant was advised that the PA surgical request was denied. (Department's Exhibit A, pp. 6, 7)
5. On [REDACTED], the instant request for hearing was received by the Michigan Administrative Hearing System (MAHS) for the Department of Community Health. (Appellant's Exhibit #1)

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.

Medicaid does not provide for treatment of obesity, weight reduction or maintenance alone:

Medicaid covers treatment of obesity when done for the purpose of controlling life-endangering complications, such as hypertension and diabetes. If conservative measures to control weight and manage the complications have failed, other weight reduction efforts may be approved. The physician must obtain PA for this service. Medicaid does not cover treatment specifically for obesity or weight reduction and maintenance alone.

The request for PA must include the medical history, past and current treatment and results, complications encountered, all weight control methods that have been tried and have failed, and expected benefits or prognosis for the method being requested. If surgical intervention is desired, a psychiatric evaluation of the beneficiary's willingness/ability to alter his lifestyle following surgical intervention must be included.

If the request is approved, the physician receives an authorization letter for the service. A copy of the letter must be supplied to any other provider, such as a hospital, that is involved in providing care to the beneficiary.

Medicaid Provider Manual (MPM) Practitioner, §4.22,
January 1, 2012, p. 38

The Appellant's testimony established that while she has important health goals and a

significant BMI, her physical health presents no life endangering condition not otherwise addressed by her primary care physician.

The Department's witness, [REDACTED], testified that irrespective of the Appellant's overall concerns she did not provide adequate documentation of recurrent, life threatening, or unresponsive health issues. She added that significant BMI would always be considered on medical review – but in conjunction with some significant co-morbidity.

The Appellant's testimony, while thoughtful, focused on her weight loss goals and the cyclical nature of the Appellant's battle with her weight during her lifetime. She stressed the desire to be active with her [REDACTED]-year old child.

On review, it is obvious that the Appellant seeks equitable relief far beyond the jurisdiction of this ALJ. The Appellant failed to meet MPM criteria of necessity for controlling a life endangering medical complication – such issues do not confront the Appellant.

The Appellant has failed to preponderate that level of proof to establish that the requested surgery is medically necessary.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly denied the Appellant's request for gastric bypass surgery.

IT IS THEREFORE ORDERED that:

The Department's decision is AFFIRMED.

Dale Malewska
Administrative Law Judge
for Olga Dazzo, Director
Michigan Department of Community Health

cc:

[REDACTED]

Date Mailed: 2/24/2012

***** 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 60 days of the mailing date of the Decision and Order or, if a timely request for rehearing was made, within 60 days of the mailing date of the rehearing decision.

