

**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. 2012-33427 PA

██████████

██████████

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 ██████████. ██████████, the Appellant, appeared on her own behalf. ██████████, Appeals Review Officer, represented the Department. ██████████ Chief Medical Director, appeared as a witness for the Department.

ISSUE

Did the Department properly deny the Appellant's prior authorization request for a 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. The Appellant is a ██████ year old Medicaid beneficiary. (Exhibit 1, page 13)
2. On ██████████, the Department received a prior approval-request for gastric bypass surgery for the Appellant. The attached medical documentation showed a history of breast cancer, depression, morbid obesity, pre-diabetes, thyroid problems and osteoarthritis. The Appellant's dieting history was noted to be limited and confined to self-managed attempts to reduce intake. (Exhibit 1, pages 13-27)
3. On ██████████ the Department issued a Notification of Denial to the Appellant stating the prior authorization request for gastric bypass surgery was denied under the Medicaid Provider Manual Policy. (Exhibit 1, page 12)

4. On ██████████, notice of the denial was also sent to the Appellant's doctor. (Exhibit 1, page 10)
5. On ██████████, the Michigan Administrative Hearing System received the Appellant's hearing request with attached medical documentation. (Exhibit 1, pages 4-9)

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.

The Medicaid Provider Manual addresses treatment for weight reduction:

4.22 WEIGHT REDUCTION

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.

*MDCH Medicaid Provider Manual,
Practitioner Section,
October 1, 2011, page 39*

In the present case, the Department's Chief Medical Officer explained that the information submitted with the ██████████ prior authorization request did not establish that the purpose of the treatment was for controlling life-endangering complications nor that conservative measures to control weight and manage the

complications have failed. She noted the documentation showed pre-diabetes, but no current treatment for diabetes. There was also no documentation showing treatment for hypertension. Additionally, the Appellant's dieting history was noted to be limited and confined to self-managed attempts to reduce intake. (Chief Medical Director Testimony and Exhibit 1, pages 13-27) Accordingly, the Department denied the Appellants prior authorization request.


The Appellant disagrees with the denial and testified that she believes this treatment would address life threatening conditions. She explained that the weight increases the risk of breast cancer recurring or a second cancer, as well as other conditions like diabetes, hypertension, and heart disease. (Appellant Testimony) The Appellant submitted documentation from her radiation oncology and medical oncology doctors. (Exhibit 1, pages 5-9) The Appellant testified that she is careful about what she eats. She explained that while she has always had some extra weight, most of the excess weight has been caused by the breast cancer treatment. She has gained another 13 pounds since the documentation provided in ██████████. The Appellant stated she has tried Weight Watchers in the past, and has been through weight management at Sparrow. (Appellant Testimony)

The Appellant did not meet the Medicaid Provider Manual criteria for the requested gastric bypass surgery. The submitted documentation supports the obesity diagnosis, but did not show that the Appellant currently has a life threatening complication. Rather, the documentation and the Appellant's testimony indicate she is at a higher risk of complications. Further, there was no documentation of conservative measures to control weight. The Appellant's testimony that she went through everything for weight management with Sparrow was not documented in the information they provided with the prior authorization request. ██████████ ██████████ Weight Management Center documentation shows the Appellant went through a multiple part evaluation for bariatric surgery, but does not show she participated in conservative measures, like a physician supervised weight loss program. (Exhibit 1, pages 13-27) Accordingly, the Department's determination must be upheld based on the available information.

A new prior authorization request can always be submitted with supporting documentation, including any participation in a physician supervised weight loss program or other conservative measures to control weight, and diagnoses of any life threatening complications that have not been managed with conservative measures.

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 prior authorization request for gastric bypass surgery based upon the available information.


Docket No. 2012-33427 PA
Decision and Order

IT IS THEREFORE ORDERED that:

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

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

cc: 

Date Mailed: 5-25-12

***** 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.