

**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:

██████████

Appellant

Docket No. 2012-22555 QHP

██████████

██████████

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 her own behalf. ██████████ represented ██████████, the Medicaid Health Plan (██████). ██████████ Chief Medical Director, 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 a ██████ year-old female Medicaid beneficiary who is currently enrolled in the Respondent ██████, ██████████.
2. On ██████████ the ██████ received a prior authorization request for a septoplasty from the Appellant's physician. The Appellant's physician noted a diagnosis of deviated nasal septum/acquired deformity of nose. (Exhibit A)
3. The ██████ utilizes InterQual criteria when reviewing prior authorization requests for septoplasty. (Exhibit C)
4. On ██████████ 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. Specifically, there is no documentation of a trial and failure of an intranasal corticosteroid spray. (Exhibit A)

5. The Appellant has a partial obstruction on her right side nasal passage. The documentation submitted indicates it is ██████████ obstructed.
6. In InterQual criteria indicate criteria are met with a ██████████ obstruction.
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 ██████████ may devise criterion for coverage of medically necessary services, as long as those criterion do not effectively avoid providing medically necessary services. An ██████████ 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 ██████████ contract provisions allow prior approval procedures for ██████████ purposes. The MHP representative explained that for septoplasty surgery, the ██████████ requires prior approval. The ██████████ utilizes InterQual criteria for septoplasty in reviewing prior authorization requests. (Exhibit A) The InterQual criteria include clinical indications for this procedure. The pertinent portion is below::

Indications (for septoplasty)

- 100 Nasal obstruction with deviated septum
- 200 Deviated Septum with chronic maxillary rhinosinutis
- 300 deviated septum with recurrent acute maxillary rhinosinustis
- 400 deviated septum with recurrent epistaxis
- 100 nasal obstruction with deviated septum
 - 110 space between inferior turbinate and septum decreased by >75%
 - 120 continued obstruction after intranasal corticosteroid spray > 6 weeks.

(Exhibit A, page 6)

The uncontested evidence submitted by the ██████████ indicates the ██████████ determined that the InterQual criteria were not met with the ██████████ documentation submitted with the prior authorization request. Specifically, there has been no documentation provided indicating that an intranasal corticosteroid has failed and/or that the Appellant has an obstruction of at least ██████████.

The Appellant testified that she is unable to sleep at night, cannot breath through her right nasal passage. She asserted the request for Flonase or equivalent medication had not been approved. She asserted she uses over-the-counter nasal spray.

While this ALJ sympathizes with the Appellant's situation, the documentation provided with the prior authorization request does not support that she has met the criteria for prior approval of septoplasty surgery. Accordingly, the [REDACTED] denial was proper. The Appellant may reapply for prior approval at any time should she 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 [REDACTED] decision is AFFIRMED.

Jennifer Isiogu
Administrative Law Judge
for Olga Dazzo, Director
Michigan Department of Community Health

cc: [REDACTED]

Date Mailed: 4-9-12

***** 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

