

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

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IN THE MATTER OF:

██████████,

Appellant

_____ /

Docket No. 2012-28137 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 on ██████████. ██████████, M.D., represented the Appellant. ██████████ mother, appeared as a witness for the Appellant. ██████████, Grievance Coordinator, represented ██████████, the Medicaid Health Plan (MHP). ██████████, Medical Director, and ██████████ ██████████, Manager Clinical Operations, appeared as witnesses for the MHP. The hearing record was left open through ██████████ for the Appellant to submit additional medical documentation and for response from the MHP. Both the additional documentation (Exhibit B) and responses from the MHP (Exhibits 9 and 10) have been received.

ISSUE

Did the MHP properly deny the Appellant's request for excision and reconstruction of left ear keloid?

FINDINGS OF FACT

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

1. The Appellant is an ██████ year-old male Medicaid beneficiary who is currently enrolled in the Respondent MHP, ██████████.
2. On ██████████, the MHP received a request for excision and reconstruction of left ear keloid for the Appellant. The attached documentation indicated the current plan was to undertake excision followed by a full dose of radiation. A ██████████ consultation indicated that this is a large keloid, which recurred approximately four months after excision followed by radiation consisting of brachytherapy.

Photographs were also included. (Exhibits 3-6)

3. On ██████████, the MHP sent the Appellant a denial notice, stating that the request for excision of keloid was denied because the medical documentation did not demonstrate sustained clinical improvement as the expected outcome with elimination of recurrence. (Exhibit 7)
4. On ██████████ a formal, administrative hearing was requested on the Appellant's behalf contesting the denial. (Exhibit A)
5. On ██████████, the MHP issued a written authorization for treatment with a dermatologist. (Exhibit 9)
6. On ██████████, additional photographs and medical documentation was submitted. Included was a ██████████ letter from the plastic surgeon stating that the Appellant's keloid recurred after excision and radiation in ██████████, the current plan is to re-excise the tumor and follow with radiation therapy, and noting the estimated recurrence rate for keloids is 50%. (Exhibit B)
7. On ██████████, the MHP's Medical Director reviewed the photographs and responded that further attempts to remove the keloid will only worsen the Appellant's condition as demonstrated after the first removal and that no acceptable surgical removal of keloid has been developed as of this date. (Exhibit 10)

CONCLUSIONS OF LAW

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:

- Written policies with review decision criteria and procedures that conform to managed health care industry standards and processes.
- A formal utilization review committee directed by the Contractor's medical director to oversee the utilization review process.
- Sufficient resources to regularly review the effectiveness of the utilization review process and to make changes to the process as needed.
- 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.*

Under its contract with the Department, an MHP may devise criterion for coverage of medically necessary services, as long as those criterion do not effectively avoid providing medically necessary services. An MHP 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 cosmetic surgical procedures. Keloid removal surgery falls within the Medicaid Provider Manual policy governing cosmetic procedures, set forth below:

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: October 1, 2011
Page 62*

The DCH-MHP contract provisions allow prior approval procedures for UM purposes. The MHP representative explained that for keloid removal surgery, the MHP also requires prior approval. The MHP keloid removal policy is based on nationally developed and internally adopted criteria. (Exhibit 8) The MHP keloid removal policy contains both administrative and clinical criteria:

Administrative Criteria

1. THC's Medical Director must prior approve
2. A referral from member's PCP is required along with supporting medical documentation
3. Supporting medical documentation must include member's history, size of the lesion, location, current symptoms along with duration and severity, and treatment(s) to date with results
4. Requested service must be determined to be medically necessary and not for cosmetic purposes (to improve appearance without restoring bodily function or correcting physical impairment)
5. A dermatology or plastic surgery consultation is required

6. Medical documentation must demonstrate sustained clinical improvement is the expected outcome with elimination of reoccurrence
7. Member must have current eligibility on date of service
8. Procedure must be ordered, arranged, and performed by a THC contracted provider
9. Photograph (preferably color) of keloid(s) to be removed

Clinical Criteria

1. Keloid formation is due to complications arising from a medically necessary service when the treatment of the complication itself is medically necessary (e.g. major surgery such as organ transplantation and the development of a lesion secondary to host vs. graft syndrome)
2. Excision of lesion and restoration of body form following an accidental injury
3. Lesion is suspicious of a malignancy
4. Lesion causes infection, bleeding, and inflammation at site
5. Keloid is a result of neoplastic surgery (e.g. hypertrophic keloid scar formation due to radiation therapy to a specific body part)
6. Keloid formation secondary to burn scars

(Exhibit 8)

The MHP determined that the keloid removal criteria were not met with the documentation submitted for the prior authorization request. Specifically, the medical documentation did not demonstrate sustained clinical improvement is the expected outcome with elimination of recurrence. (Exhibit 7) The Medical Director explained that there is a high risk that the keloid will return and be larger if removal is attempted, as demonstrated after the prior removal. (██████████ Testimony and Exhibit 10) The MHP indicated that they would make every attempt to treat the skin infections/irritations of the keloid and authorized treatment by a dermatologist. (Exhibits 9 and 10)

The Appellant's physician disagrees with the denial and testified that the Appellant suffers from recurrent inflammation, ulceration of skin, infections and pain with the keloid. [REDACTED] stated that these issues recur despite treatment with topicals and antibiotics. ([REDACTED] Testimony) Additional documentation and photographs were submitted after the [REDACTED] telephone hearing proceedings. (Exhibit B) On the cover letter, [REDACTED] asserts that concern was recently expressed that the prior surgery failed to remove all the fibroids from his earlobe, possibly increasing the chances for recurrence, and the new surgeon is allegedly more experienced, which may result in a better outcome. (Exhibit B page 1) However, the most recent letter from the plastic surgeon, confirms that the Appellant's keloid recurred after excision and radiation in [REDACTED], the current plan is to re-excise the tumor and follow with radiation therapy, and noted the estimated recurrence rate for keloids is 50%. (Exhibit B page 4)

While this ALJ sympathizes with the Appellant's situation, the documentation does not establish that the Appellant meets the criteria for keloid removal. The treatment plan proposed by the Appellant's physicians did not demonstrate sustained clinical improvement as the expected outcome with elimination of reoccurrence. Rather, the [REDACTED] letter documents the estimated recurrence rate for keloids is 50%. Accordingly, the MHP's denial of the prior authorization for excision and reconstruction of left ear keloid was proper.

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 excision and reconstruction of left ear keloid.

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:

[REDACTED]

Date Mailed: 5/1/2012

***** 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 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.