

**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. 2012-30208 PA
Case No. ██████████

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 ██████████. ██████████ appeared and testified; ██████████, Appeals Review Officer, represented the Department.

ISSUE

Did the Department properly deny Appellant's request for prior authorization for OncoType Dx Test- Breast?

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 Medicaid Beneficiary.
2. In ██████████, the Appellant was diagnosed with breast cancer. Treatment protocol required testing revealed that the Appellant was ER- positive, PR positive with a negative HER-2/neu.
3. On ██████████ ██████████ ██████████, the Department of Community Health (Department), Medical Services Administration, Prior Authorization Section (MSA), received a Prior Authorization Request for OncoType Dx Test- Breast from ██████████.

4. The Department reviewed the plan and on ██████████, sent the Appellant and her physician a Request for Additional Information. Subsequently the Appellant's physician provided additional medical information but no medical evidence of a negative lymph node biopsy was provided.
5. On ██████████, MSA sent ██████████ and the Appellant written notice that it had denied the Prior Authorization because no medical information was provided which showed that the Appellant had a negative lymph node biopsy.
6. Subsequently the Appellant had several cancerous lymph nodes removed and began chemotherapy.
7. On ██████████, the Michigan Administrative Hearing System received the Appellant's request for an Administrative hearing.

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 covered services and coverage criteria for those services are provided in the MSA Medicaid Provider Manual. The Medicaid provider Manual, Practitioner chapter, section 1, provides in pertinent part:

This chapter applies to physicians (MD, DO), Oral-Maxillofacial Surgeons, Doctors of Podiatric Medicine (DPM), Medical Clinics, Physical Therapists (PTs), Certified Nurse-Midwives (CNMs), Certified Registered Nurse Anesthetists (CRNAs), Anesthesiologist Assistants (AAs), and Nurse Practitioners (NPs).

Generally, medically necessary services provided to a Medicaid beneficiary by an enrolled practitioner are covered. The services addressed in this chapter include services that require explanation or clarification, have special coverage requirements, require prior authorization (PA), or must be ordered by a physician (MD or DO).

Information is included to assist the practitioner in determining how the Michigan Department of Community Health (MDCH) covers specific services. This information should be used in conjunction with the Billing & Reimbursement for Professionals Chapter of this manual, as well as the MDCH Practitioner and Medical Clinic Database and other related procedure databases located on the MDCH website. (Refer to the Directory Appendix for website information.

Medicaid Provider Manual, Practitioner,
Section 1. P 1, online p. 1308

The Department's policy with regard to the prior authorization of Medicaid covered services is contained in Practitioner Chapter Section 1.10.

Medicaid requires prior authorization (PA) to cover certain services before those services are rendered to the beneficiary. The purpose of PA is to review the medical need for certain services. It does not serve as an authorization of fees or beneficiary eligibility. Different types of services requiring PA include:

- Procedures identified as requiring PA on the procedure code databases on the MDCH website;
- Procedures/items that are normally noncovered but may be medically necessary for select beneficiaries (e.g., surgery normally cosmetic in nature, obesity surgery, off-label use drugs ,etc.); and,
- Referrals for elective services by out-of-state nonenrolled providers.

Medicaid Provider Manual, Practitioner,
Section 1.10 , p.4, online p. 1311

The undisputed evidence provided shows that in [REDACTED], the Appellant was diagnosed with breast cancer. [REDACTED], the Department received a Prior Authorization Request for OncoType Dx Test- Breast from [REDACTED] the Appellant's physician. The Department reviewed the Prior Authorization Request and determined that it did not have sufficient medical information to approve or deny the request. On [REDACTED], the Department sent [REDACTED] a written request for additional medical information. The Department specifically requested medical documentation which showed the results of a lymph node biopsy.

Subsequently the Appellant's physician provided medical documentation but no lymph node biopsy results were provided. On ██████████, the Department sent the Appellant and ██████████ written notice that the Prior Authorization Request for Onco Type Dx Test- Breast was denied because no lymph node testing results had been provided.

██████████ Medical Consultant, testified for the Department that OncoType Dx for breast cancer is a Medicaid covered service if medical documentation is provided that shows that the Appellant has all of the following: a diagnosis of breast cancer, is ER-positive, is PR positive with a negative HER-2/neu and has a negative lymph node biopsy. ██████████ testified that the Appellant's prior authorization request documentation met the first three criteria but at the time of the Department's review, the Appellant's physician had not submitted medical documentation of a negative lymph node biopsy. ██████████ testified that the purpose of the OncoType testing is to determine the likely progression or remission of the Appellant's cancer and the need for chemotherapy. ██████████ testified that if the Appellant had a lymph node biopsy and the lymph node was positive for cancer then treatment protocols would include chemotherapy. ██████████ testified that given the Appellant's testimony that she had a positive lymph node biopsy, requiring the removal of several lymph nodes Onco Type testing is no longer medically necessary.

The Appellant testified that earlier this year she had several cancerous lymph nodes removed followed by chemotherapy. The Appellant testified that she currently is undergoing chemotherapy and this week will have a port installed to allow for several weeks of chemotherapy. The Appellant testified that she is willing to have her physician send whatever documents are required by the Department.

In response to the Appellant's testimony ██████████ testified that because the Appellant's cancer had spread to the Appellant's lymph nodes requiring their removal, and because the Appellant's physician had begun a treatment protocol that included chemotherapy, there was no longer a medical need for the OncoType Dx Test. ██████████ testified that the Department would be willing to review any medical documentation provided by the Appellant.

I find based on the evidence presented that the Department properly considered and properly denied the Appellant's Prior Authorization Request for OncoType Dx Test-Breast because the Appellant's physician did not provide medical documentation which showed the results of a lymph node biopsy. I find based on the Appellant's credible testimony that earlier this year the Appellant had several cancerous lymph nodes removed and her physician began chemotherapy treatment protocol. Given these facts Onco Type Dx testing is no longer 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 prior authorization request for Onco Type Dx Testing- Breast.

IT IS THEREFORE ORDERED that:

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

Martin D. Snider
Administrative Law Judge
for Olga Dazzo, Director
Michigan Department of Community Health

cc:

[REDACTED]

Date Mailed: 5/2/2012

***** NOTICE *****

The Administrative Tribunal 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 Administrative Tribunal 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 mailing date of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the mailing date of the rehearing decision.