

5. The ██████████ written Notice of Denial explained her appeal rights. Department's Exhibit A, p. 9
6. In her request for hearing the Appellant complained of a great amount of pain "both physical and mental" as the reason for the proposed mammoplasty. Appellant's Exhibit #1.
7. The instant appeal was received by the Michigan Administrative Hearing System for the Department of Community Health on ██████████. 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.

Additionally, the Medicaid Provider Manual sets forth exacting requirements for the authorization of cosmetic surgery under Medicaid.¹ The criteria for approval of cosmetic procedures under the MPM are exacting:

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.

Physicians should refer to the General Information for Providers Chapter for specific information for obtaining authorization.

MPM, Practitioner, §13.3, April 1, 2012, pages 62, 63².

¹ Including the Medicaid Health Plans. See MPM, §1.3, *Supra*

² Renumbered on April 1, 2012, but otherwise identical to the standard existing on denial of service and appeal.

At hearing the Department witness testified that there was inadequate evidence submitted on PA to show that the requested surgery was medically necessary or that it met existing criteria for cosmetic surgery found in the Medicaid Provider Manual.

The Appellant testified that her large breasts cause her significant pain in that her "...back, neck and shoulders hurt all of the time." She added that she is currently not working and suffers from depression – a condition, she reports, that her surgeon was aware of.

The Department's physician-witness stated that the Department would accept a note from the Appellant's psychologist as independent documentation which would satisfy the MPM criteria for breast reduction surgery.

On review – the OMA and the MPM require proof of medical necessity which could be satisfied, according to Dr. Reid, with a note from the Appellant's psychologist detailing her depression diagnosis.

Irrespective of Dr. [REDACTED] pronouncement that a note from the Appellant's psychologist would suffice for authorization of breast reduction surgery - the Appellant did not withdraw her appeal. Accordingly, even though a remedy bodes, the Appellant has not preponderated her burden of proof.

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 breast reduction 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: 5-16-12

***** 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.