

**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) 373-4147

IN THE MATTER OF:

██████████,

Appellant

Docket No. 2013-13968 QHP  
Case ██████████

**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 ██████████. Valerie Stanley, the Appellant, appeared and testified.

Priority Health was represented by ██████████, Manager of Medicaid. ██████████ is a Department of Community Health contracted Medicaid Health Plan ("MHP").

**ISSUE**

Did the MHP properly deny the Appellant's request for Butrans patch 10mcg/hour?

**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. On or about ██████████, the MHP received a request for Butrans patch 10mcg/hour from the Appellant's doctor's office for diagnoses of lumbago as well as neck and lumbar pain. An additional telephone conversation occurred between the MHP and the Appellant's doctor's office on ██████████. The information provided indicated the Appellant has previously tried ibuprofen, meloxicam, hydrocodone/apap and steroid injections. The Appellant's doctor does not prescribe medications like morphine, fentanyl, methadone or oxycontin, but the Appellant will be going to a pain clinic that may prescribe those medications. There was a concern with misuse, and the requested medication is less likely for abuse than the others. (Exhibit 1, pages 7-8)

3. On ██████████, the MHP issued a denial letter to the Appellant and her doctor indicating the decision was based on formulary policy which requires therapeutic trial and clinical failure with two of the following: extended-release morphine sulfate, methadone, fentanyl patch, and OxyContin. The information provided did not establish that this criterion was met. (Exhibit 1, pages 9-10)
4. On ██████████, the Appellant's appeal request was received. (Exhibit 1, page 6)

### **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 Medicaid Health Plans.

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:

- 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 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,  
MDCH contract (Contract) with the Medicaid Health Plans,  
October 1, 2009.*

The DCH-MHP contract provisions allow prior approval procedures for utilization management purposes. The MHP Director of Medicaid explained that the MHP has a formulary and for the requested Butrans patch, the MHP requires trial and failure with two of the following: extended-release morphine sulfate, methadone, fentanyl patch, and OxyContin. The MHP reviewed the information provided by the Appellant's doctor's office and the Appellant's prescription claims history. The available information did not indicate that this criterion was met. Accordingly, the MHP denied the Appellant's request for Butrans patch. (Exhibit 1, pages 7-18; Manager of Medicaid Testimony)

The Appellant disagrees with the denial and testified her doctor has prescribed numerous things, some of which made her lethargic and tired all the time. The Appellant needs to be able to drive. The Appellant attends school full time and has a sixteen year old daughter. The Appellant is concerned about being able to handle medications like Oxycontin and Morphine when she can barely take muscle relaxers. The Appellant is also concerned about addiction because there is a family history of addiction on her mother's side. (Appellant Testimony)

The MHP provided sufficient evidence that its formulary and medication prior approval process is consistent with Medicaid policy and allowable under the DCH-MHP contract provisions. The MHP demonstrated that based on the information it had at the time the denial decision was made, the Appellant did not meet criteria for approval of Butrans patch because the available information did not establish a trial and failure with two of the following: extended-release morphine sulfate, methadone, fentanyl patch, and OxyContin. While the Appellant's doctor indicated he does not prescribe the formulary alternatives, the information provided did not rule out the use of these medications. Rather, it was stated that the Appellant will be going to a pain clinic that may prescribe those medications. (Exhibit 1, page 8) Accordingly, the MHP's determination must be upheld.

At any time the Appellant can have a new prior authorization request for Butrans patch submitted to the MHP with additional documentation supporting the medical necessity of the requested medication, such as documentation of a trial and failure with two of the formulary medications or additional information addressing why the formulary alternatives should not be prescribed.

**DECISION AND ORDER**

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the MHP properly denied the Appellant's request for Butrans patch 10mcg/hour based upon the available information.

**IT IS THEREFORE ORDERED** that:

The Medicaid Health Plan's decision is AFFIRMED.

  /s/    
Colleen Lack  
Administrative Law Judge  
for James K. Haveman, Director  
Michigan Department of Community Health

cc:



Date Mailed:   2/5/2013

**Docket No. 2013-13968 QHP**  
**Decision and Order**

**\*\*\* NOTICE \*\*\***

The Michigan Administrative Hearing System 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.