

**STATE OF MICHIGAN  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
FOR THE DEPARTMENT OF COMMUNITY HEALTH**  
P.O. Box 30763, Lansing, MI 48909  
(517) 335-2484; Fax: (517) 373-4147

**IN THE MATTER OF:**

██████████

Appellant

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Docket No. 2013-20208 QHP  
Case No. ██████████

**DECISION AND ORDER**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37, and upon the Appellant's request for a hearing.

After due notice, a hearing was held on ██████████. Appellant appeared and testified on ██████ own behalf. ██████████, represented the Medicaid Health Plan (MHP). ██████████; also appeared as a witness for the MHP.

**ISSUE**

Did the MHP properly deny Appellant's request for bariatric (weight loss) surgery?

**FINDINGS OF FACT**

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. On ██████████, the MHP received a request from the Bariatric Surgery Center at ██████████ Hospital seeking approval for laparoscopic gastric bypass surgery for Appellant. (Respondent's Exhibit A, pages 5-13).
2. Along with the request, Appellant's provider submitted documents regarding a surgeon's consultation, a nursing consultation, and a dietician consultation. Appellant's provider also subsequently submitted documents from a psychological evaluation Appellant underwent. (Respondent's Exhibit A, pages 5-13).
3. The MHP reviewed the submitted documents and Appellant's general medical history. (Testimony of ██████████.)
4. Those documents and history undisputedly demonstrate that, while Appellant utilized a diet program in ██████████ and entered weight loss

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programs in [REDACTED] and [REDACTED], the diet program was not supervised by a physician and Appellant followed the weight loss programs for less than a year. (Respondent's Exhibit A, page 8; Testimony of Appellant).

5. On [REDACTED], the MHP sent Appellant and [REDACTED] provider written notice that the request for bariatric (weight loss) surgery was denied as the applicable guidelines required that Appellant first show that [REDACTED] had successfully participated in a physician-supervised weight loss program for a least one year within the last two years. (Respondent's Exhibit A, pages 48-51).
6. On [REDACTED], the Michigan Administrative Hearing System (MAHS) received a request for hearing regarding the denial filed by Appellant.

**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 in one of those Medicaid Health Plans and, regarding such plans, the Michigan Medicaid Provider Manual (MPM) states:

**SECTION 1 – GENERAL INFORMATION**

The Michigan Department of Community Health (MDCH) contracts with Medicaid Health Plans (MHPs), selected through a competitive bid process, to provide services to Medicaid beneficiaries. The selection process is described in a Request for Proposal (RFP) released by the Office of Purchasing, Michigan Department of Technology, Management & Budget. The MHP contract, referred to in this chapter as the Contract, specifies the beneficiaries to be served, scope of the benefits, and contract provisions with which the MHP must comply. Nothing in this chapter should be construed as requiring MHPs to cover services that are not included in the Contract. A copy of the MHP contract is available on the MDCH website. (Refer to the Directory

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Appendix for website information.) MHPs must operate consistently with all applicable published Medicaid coverage and limitation policies.

(Refer to the General Information for Providers and the Beneficiary Eligibility chapters of this manual for additional information.) Although MHPs must provide the full range of covered services listed below, MHPs may also choose to provide services over and above those specified. **MHPs are allowed to develop prior authorization requirements and utilization management and review criteria that differ from Medicaid requirements.** The following subsections describe covered services, excluded services, and prohibited services as set forth in the Contract.

**1.1 SERVICES COVERED BY MEDICAID HEALTH PLANS (MHPs)**

\* \* \*

- Medically necessary weight reduction services

[MPM, Michigan Health Plan (MHPs) Chapter, October 1, 2012 version, pages 1-2 (emphasis added.)]

Here, the MHP has properly developed utilization guidelines for weight loss surgeries and those guidelines include the following criteria:

4. Physician documented successful participation in a physician supervised weight loss program involving a weight loss diet, exercise, and behavioral modifications for a minimum of one (1) year, performed within the last two (2) years. Successful participation is determined at a minimum by documented regular attendance (at least monthly) and demonstration of consistent weight loss. The weight loss program must be medically supervised and provided by a plan provider. A physician's summary letter will not be considered sufficient documentation. The documentation must include medical records/clinical notes of the physician's contemporaneous assessment of the member's progress throughout the course of the weight loss program. [Respondent's Exhibit A, page 2.]

In this case, it is undisputed that Appellant has not successfully participated in a

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physician-supervised weight loss program for a least one year within the last two years. Accordingly, [REDACTED] fails to meet the criteria for the requested surgery and the denial must be affirmed.

**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 bariatric weight loss surgery.

**IT IS THEREFORE ORDERED** that:

The Medicaid Health Plan's decision is **AFFIRMED**.

*Steven Kibit*

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Steven Kibit  
Administrative Law Judge  
for James K. Haveman, Director  
Michigan Department of Community Health

cc:

[REDACTED]

Date Mailed: 03/19/13

**\*\*\* 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 60 days of the mailing date of the Decision and Order or, if a timely request for rehearing was made, within 60 days of the mailing date of the rehearing decision.