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) 373-4741

IN THE MATTER OF:

Docket No. 2013-32263 PA

[redacted]

Appellant

[redacted]/

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 [redacted] [redacted] father, appeared as the Appellant's representative. [redacted] Appeals Review Officer, represented the Department. [redacted] Consulting Physician, appeared as a witness for the Department.

ISSUE

Did the Department properly deny the Appellant's prior authorization request for an out of state service, an esophagogastroduodenoscopy ("EGD")?

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 an [redacted] year old Medicaid beneficiary.

2. On or about [redacted] the Department received a prior approval request for the Appellant for out of state services, specifically a [redacted] EGD for an admission diagnosis of emesis to be performed at [redacted] (Exhibit 1, pages 11-12)

3. Additional medical documentation was submitted outlining the Appellant's extensive medical and surgical history, which includes: hypoplastic left heart syndrome status polyps status post Fontan and fenestration closure, complicated by distal ileal perforation, ileostomy; status post Nissen and G-tube placement; small bowel obstruction with jejunal perforation followed by multisystem organ failure and resultant short

bowel syndrome; reactive airway disease; malnutrition; [redacted] associated cholestasis and cirrhosis; pancreatitis; portal hypertension; GERD; intestinal failure; ascites and short bowel syndrome. (Exhibit 1, pages 13-32)

4. On [redacted] the Department denied the prior authorization request because "MDCH will only prior authorize non-emergency services to out of state/beyond borderland providers if the service is not available within the [redacted] and borderland areas. The following CSHCS criterion has not been met: Comparable care (the term "comparable care" does not require that the services be identical) for the CSHCS qualifying diagnosis cannot be provided within the [redacted] Services are available in [redacted]" (Exhibit 1, pages 8-9)

5. On [redacted] the request for hearing filed on the Appellant's behalf was received by the Michigan Administrative Hearing System.

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.

The Program Overview for the Medical Supplier section of the Medicaid Provider Manual states:

1.10 PRIOR AUTHORIZATION

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.

1.10.A. TO OBTAIN PRIOR AUTHORIZATION

Providers must submit a letter to the MDCH Program Review Division to obtain PA. (Refer to the Directory Appendix for contact information.) The letter and materials submitted requesting PA must include:

- Beneficiary's name and Medicaid ID number.
- Provider's name, address, NPI number.
- Contact person and phone number.
- A complete description, including Current Procedural Terminology (CPT)/Health Care Financing Administration Common Procedure Coding System (HCPCS) procedure codes as appropriate, of the procedure(s) that will be performed.
- The beneficiary's past medical history, including other treatments/procedures that have been tried and the outcome, diagnostic test results/reports, expectations and prognosis for the proposed procedure, and any other information to support the medical need for the service.

MDCH Medicaid Provider Manual,
Practitioner Section,
October 1, 2012, page 4

7.3 OUT OF STATE/BEYOND BORDERLAND PROVIDERS [CHANGES MADE 7/1/12 & 10/1/12]

Reimbursement for services rendered to beneficiaries is normally limited to Medicaid-enrolled providers. MDCH reimburses out of state providers who are beyond the borderland area (defined below) if the service meets one of the following criteria:

- Emergency services as defined by the federal Emergency Medical Treatment and Active Labor Act (EMTALA) and the Balanced Budget Act of 1997 and its regulations; or
- Medicare and/or private insurance has paid a portion of the service and the provider is billing MDCH for the coinsurance and/or deductible amounts; or
- The service is prior authorized by MDCH. MDCH will only prior authorize non-emergency services to out of state/beyond borderland providers if the service is not available within the state of Michigan and borderland areas.

***

> Out of state/beyond borderland providers enrolled with the Michigan Medicaid program may submit their claims directly to CHAMPS. **(revised 7/1/12)** Providers should refer to the appropriate Billing and Reimbursement chapter of this manual for billing instructions.
>
> MDCH is prohibited by federal law from issuing Medicaid payment to any financial institution or entity whose address is outside of the United States.
>
> Out of state/beyond borderland providers have a responsibility to follow Michigan Medicaid policies, including obtaining PA for those services that require PA.
>
> **All nonemergency services rendered by providers require the referring physician to obtain written PA from MDCH as indicated in the Prior Authorization Section of this chapter.**
>
> When a Michigan provider has referred a Medicaid beneficiary to a provider beyond the borderland area, the referring provider should instruct the provider to refer to this manual or the MDCH website for enrollment instructions. (Refer to the Directory Appendix for website information.)
>
> MDCH Medicaid Provider Manual,
> *General Information for Providers Section,*
> October 1, 2012, pages 13-14

In the present case, the Department received a [redacted] prior approval request for the Appellant for out of state services, specifically a [redacted] EGD for an admission diagnosis of emesis to be performed at [redacted] (Exhibit 1, pages 11-12) The submitted additional medical documentation outlined the Appellant's complex medical and surgical history. (Exhibit 1, pages 13-32)

The Department noted that the Assessment and Recommendation from the [redacted] Gastroenterology Consultation, in part, indicated an intent to arrange for follow up in [redacted] (Exhibit 1, pages 12-17)

The Consulting Physician acknowledged that while an EGD is typically a routine outpatient procedure, it would not be a routine procedure for the Appellant. The Department needed physician documentation of the reason the EGD for the Appellant could not be done within the [redacted] Out of state referrals typically come from the attending physician stating what has been tried, who has been consulted, that all agree they have nothing else to offer the patient, and the patient needs to go to the out of state provider for the service because it cannot be done in the state of [redacted].

(Consulting Physician Testimony) A [redacted] letter from the [redacted], Pediatric Surgery Clinic supported the Appellant going to [redacted] for evaluation and treatment of intestinal failure, but it was written by a nurse. Further, the letter did not discuss what the [redacted] hospital can offer that the [redacted] cannot and why the EGD cannot be done in [redacted]. (Exhibit 1, page 20; Consulting Physician Testimony)

A [redacted] email from a pediatric cardiologist at the [redacted] states the Appellant's present problems are all related to his GI system and his family has tried to have them addressed in the state at multiple centers, including the [redacted], but have run into roadblocks either with the availability of service, lack of cardiac anesthesia, or even a refusal to schedule a reasonable timely appointment. (Exhibit 1, page 23) The Consulting physician explained that the [redacted] has a pediatric GI department and cardiac anesthesia. The email does not include a specific discussion about what happened with the pediatric GI department at the [redacted] nor specifically state that the EGD could not be done in [redacted]. The consulting physicians for both Medicaid and the Children's Special Health Care Services ("CHSCS") reviewed and denied this request. (Consulting Physician Testimony)

The Appellant's father disagrees with the denial and provided testimony regarding their attempts to get the Appellant into the [redacted] at the [redacted]. The Appellant father described staffing and scheduling issues, the referral requirement, and stated that ultimately the Appellant was denied participation in the program because he was not on [redacted]. They tried to have the procedure in [redacted], but the top attending physicians said they could not do it there because they do not have cardiac anesthesia. The Appellant's father was told by the pediatric surgeon at the [redacted] that if they could not get the Appellant into the [redacted] program there is nowhere else he can go. (Father Testimony)

This ALJ has reviewed the submitted documentation and agrees that it did not establish medical necessity for the requested out of state non-emergent service, an EGD at [redacted]. The documentation submitted to the Department for this prior authorization request was not as specific and detailed as the Appellant's father's testimony. The information available to the Department did not state an EGD is not available to the Appellant within the state of [redacted] and borderland areas. Based on the submitted documentation, the Department properly denied the Appellant's request for the out of state service.

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 an out of state service, an EGD, based on the available information.

IT IS THEREFORE ORDERED that:

The Department's decision is AFFIRMED.

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

Date Signed: [redacted]

Date Mailed: [redacted]

CL/db

cc: [redacted]

***** 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.