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:

[redacted],

Docket No. 2013-34752 QHP
Case No. [redacted]

Appellant.
_____/

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge (ALJ) pursuant to MCL 400.9 and 42 CFR 431.200 *et seq.*, following the Appellant's request for a hearing.

After due notice, a hearing was held [redacted]. Appellant appeared and testified on her own behalf.

[redacted], Inquiry Dispute Appeals Resolution Coordinator, represented [redacted] of Michigan, the Medicaid Health Plan ("MHP"). Dr. [redacted], Medical Director, appeared as a witness for the MHP.

ISSUE

Did the Department properly deny the Appellant's prior-authorization request for a hearing aid?

FINDINGS OF FACT

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

1. Appellant is a Medicaid beneficiary enrolled with [redacted] of Michigan. (Exhibit A, Testimony)

2. Appellant has a medical need for a hearing aid. (Exhibit A, pp 10-12)

3. [redacted] sought prior approval for a hearing aid on the Appellant's behalf on or about [redacted]. (Exhibit A, p 10)

4. [redacted] of Michigan reviewed the requested medical equipment and denied the request [redacted], citing internal and Medicaid policy. A notice of the denial was mailed to Appellant on that same date. The notice included Appellant's right to a hearing. (Exhibit A, p 13; Testimony)

5. On [redacted], the Michigan Administrative Hearing System received Appellant's hearing request.

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 Medicaid Health Plans.

> 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:
>
> (a) Written policies with review decision criteria and procedures that conform to managed health care industry standards and processes.

(b) A formal utilization review committee directed by the Contractor's medical director to oversee the utilization review process.
(c) Sufficient resources to regularly review the effectiveness of the utilization review process and to make changes to the process as needed.
(d) An annual review and reporting of utilization review activities and outcomes/interventions from the review.
(e) 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)(1) and (2),
Utilization Management, Contract,
October 1, 2009.

As it says in the above Department - MHP contract language, a MHP such as [redacted] may limit services to those that are medically necessary and that are consistent with applicable Medicaid Provider Manuals. It may require prior authorization for certain procedures. The process must be consistent with the Medicaid Provider Manual. The pertinent section of the Medicaid Provider Manual criteria for Medical Necessity is below.

The Medicaid Provider Manual provides, in pertinent part, as follows:

HEARING AID DEALERS

As required by Executive Order 2009-22, effective for dates of service on and after 07/01/2009, hearing aids are no longer payable for beneficiaries age 21 and older.

Medicaid Provider Manual
Hearing Aid Dealers Section
January 1, 2013, p i

The QHP's Medical Director testified that as of [redacted], hearing aids were removed from coverage in Michigan Medicaid. The QHP's Medical Director indicated that hearing aids have not been added back to Michigan's Medicaid coverage since that time. The QHP's Medical Director testified that hearing aids are also no longer covered by Medicare.

Appellant testified that she had perfect hearing until age [redacted], at which time she lost hearing in her right ear. Appellant indicated that it is not fair that hearing aids are covered by Medicaid for persons under 21 years old.

The [redacted], version of the Medicaid Provider Manual, in effect at the time of the request for prior authorization, contains reference to Executive Order 2009-022. This Executive Order is effective for service dates on or after July 1, 2009, and states that hearing aids are no longer payable for beneficiaries age 21 and older.

Hearing aids are a non-covered item according to the Medicaid Provider Manual policy set forth above. The Executive Order referenced in the Medicaid Provider Manual Chapter for Hearing Aid Dealers is binding authority in this case. Despite the medical necessity of the requested hearing aid, this ALJ has no authority to make an exception for the Appellant. [redacted] is not required to provide coverage for items excluded by Medicaid Policy under its contract.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the denial of the Appellant's request for prior-authorization for the binaural hearing aids was supported by Medicaid Policy.

IT IS THEREFORE ORDERED that:

The QHP's decision is AFFIRMED.

Robert J. Meade
Administrative Law Judge
for James K. Haveman, Director
Michigan Department of Community Health

[redacted]

cc: [redacted]

Date Signed: 5/21/2013

Date Mailed: 5/21/2013

***** 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.