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]

Appellant
_____/

Docket No. 2013-38473 QHP
Case No. [redacted]

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], Director of Customer Service, represented [redacted], the Medicaid Health Plan (MHP). [redacted], RN, Director of Health Services, and [redacted], Appeals and Denials Supervisor, appeared as witnesses for the MHP.

ISSUE

Did the MHP properly deny Appellant's request for varicose vein surgery (endovenous ablation)?

FINDINGS OF FACT

Based upon the competent, material, and substantial evidence presented, I find, as material fact:

1. The Appellant is a [redacted]-year-old female Medicaid beneficiary who is currently enrolled in the Respondent MHP. (Exhibit A, p 2)

2. On or about [redacted], the MHP received a Health Care Referral form for varicose vein surgery (endovenous ablation, procedure code 364.75) from the Appellant's doctor. (Exhibit A, p 2)

3. On [redacted], the MHP sent the Appellant and her doctor a denial notice stating that the request was denied because the documentation submitted (Exhibit A, pp 2-5) did not indicate recurrent bleeding, recurrent superficial thromophebitis, or ulceration due to varicose veins. (Exhibit A, pp 11-16)

4. On [redacted], the Appellant's Request for Hearing was received by the Michigan Administrative Hearing System. (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.

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. Contractors must operate consistent with all applicable Medicaid provider manuals and publications for coverage(s) and limitations. (Emphasis added by ALJ)* 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 1-Z.
>
> *Article II-G, Scope of Comprehensive Benefit Package. MDCH contract (Contract) with the Medicaid Health Plans, September 30, 2004.*

> The major components of the Contractor's utilization management plan 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 Contractor must establish and use a written prior approval policy and procedure for utilization management purposes. The Contractor may not use such policies and procedures to avoid providing medically necessary services within the coverage(s) 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 utilization management decisions be made by a health care professional who has appropriate clinical expertise regarding the service under review.

Article II-P, Utilization Management, Contract, September 30, 2004.

The DCH-MHP contract provisions require that all services provided be medically necessary. The Respondent's Policy with regard to Varicose Veins provides that the procedure Appellant is requesting is only covered if the following criteria are met:

- Incompetence (i.e. reflux) at the saphenofemoral junction or saphenopopliteal junction or greater saphenous vein or lesser saphenous vein is documented by Doppler or duplex ultrasound scanning; ***and***
- Saphenous varicosities result in two or more of the following:
  - Intractable ulceration secondary to venous stasis
  - More than one episode of minor hemorrhage from a ruptured superficial varicosity; or a single significant hemorrhage from a ruptured superficial varicosity
  - Saphenous varicosities result in recurrent superficial thrombophlebitis
  - Severe and persistent pain and swelling interfering with activities of daily living and

requiring chronic analgesic medication

- ***And*** symptoms persist despite a prescribed and documented three-month trial of conservative management.

Exhibit A, p 9

The MHP witnesses testified that Appellant did not meet the above criteria because the documentation submitted did not indicate recurrent bleeding, recurrent superficial thromophebitis, or ulceration due to varicose veins.

Appellant testified that she has significant pain and discomfort and that her doctor has informed her that the condition will only get worse. Appellant indicated that it seems as if the MHP is waiting for a catastrophe to occur before they will do anything. Appellant did indicate that she is not willing to try strong, analgesic pain medication first in order to get the procedure done.

Under its contract with the Department, an MHP may devise criterion for coverage of medically necessary services, as long as those criteria do not effectively avoid providing medically necessary services. The MHP's varicose vein surgery approval process is consistent with Medicaid policy and allowable under the DCH-MHP contract provisions. A close look at the documentation submitted by Appellant's doctor supports the MHP's position that the documentation submitted did not indicate recurrent bleeding, recurrent superficial thromophebitis, or ulceration due to varicose veins. The MHP's determination is upheld based on the documentation submitted.

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 varicose vein surgery based on the submitted documentation.

IT IS THEREFORE ORDERED that:

The Medicaid Health Plan's decision is AFFIRMED.

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

[redacted]
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[redacted]

cc: [redacted]

Date Mailed: 5/2/2013

***** 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.