

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARINGS 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:

██████████,

**Docket No. 2013-23159 PA
Case No. ██████████**

Appellant

_____ /

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 ██████████. The Appellant was represented by his mother, ██████████. She had no witnesses. The Department was represented by ██████████, Appeals Review Officer. Her witness was ██████████, MDCH Prior Authorization manager.

Also in attendance was observer ██████████.

PRELIMINARY MATTER

The case was left open to ██████████ to allow receipt of documents by the Department.

ISSUE

Did the Department properly deny Appellant's request for prior authorization (PA) of speech therapy?

FINDINGS OF FACT

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

- 1) At the time of hearing the Appellant is an eight (8) year-old Medicaid beneficiary. Appellant's Exhibit #1
- 2) The Appellant has been diagnosed with "...other symbolic dysfunction (784.69), tracheostomy status, mix[ed] receptive-expressive language D/O, dysphagia, Bronchopulmonary dysphagia," and more. (Department's Exhibit A, p. 28)

- 3) On ██████████ the Department received and reviewed a request for PA for speech therapy for the months of ██████████ through ██████████ from the ██████████. (Department's Exhibit A, p. 2)
- 4) The Department sought additional information¹ from the ██████████ and the Appellant's representative. (See Department's Exhibit A – throughout)
- 5) The requested additional information was not received. (See Testimony of ██████████)
- 6) The PA was denied for lack of supporting and requested documentation.
- 7) Based on the information received the Department determined that the services were not medically necessary and not coordinated (Department's Exhibit A, throughout and See Testimony of ██████████)
- 8) On ██████████, the instant appeal was received by the Michigan Administrative Hearing System (MAHS) for the Michigan Department of Community Health (Appellant's 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.

1.9 PRIOR AUTHORIZATION²

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....

Medicaid Provider Manual (MPM), §1.9, Practitioner
July 1, 2013, page 4.

....

¹ The Department, through policy, reserves the right to request additional documentation. MPM, §1.5 *et seq.*, Medical Supplier/medical necessity. pp. 5-7, 7/1/13

² Renumbered April 1, 2013

[] SPEECH THERAPY

The terms speech therapy, speech-language pathology, speech-language therapy, and therapy are used to mean speech and language rehabilitation services and speech-language therapy. MDCH covers speech-language therapy provided in the outpatient setting. MDCH only reimburses services for speech-language therapy when provided by:

- A speech-language pathologist (SLP) with a current Certificate of Clinical Competence (CCC).

[Michigan Department of Community Health](#)

- An appropriately supervised SLP candidate (i.e., in their clinical fellowship year [CFY]) or having completed all requirements but has not obtained a CCC. All documentation must be reviewed and signed by the appropriately credentialed supervising SLP.
- A student completing his clinical affiliation under direct supervision of (i.e., in the presence of) an SLP having a current CCC. All documentation must be reviewed and signed by the appropriately credentialed supervising SLP. MDCH expects that all SLPs will utilize the most ethically appropriate therapy within their scope of practice as defined by Michigan law and/or the appropriate national professional association.

For all beneficiaries of all ages, speech therapy must relate to a medical diagnosis, and is limited to services for:

- Articulation
- Language
- Rhythm
- Swallowing
- Training in the use of an speech-generating device
- Training in the use of an oral-pharyngeal prosthesis
- Voice

For CSHCS beneficiaries (i.e., those not enrolled in Medicaid; only enrolled with CSHCS), therapy must be directly related to the CSHCS-eligible diagnosis(es) and prescribed by the specialty physician who is overseeing the care of the beneficiary. Therapy must be reasonable, medically necessary and expected to result in an improvement and/or elimination of the stated problem within a reasonable amount of time (i.e., when treatment is due to a recent change in medical or functional status affecting speech, and the beneficiary would experience a reduction in medical or functional status without therapy). Speech therapy services must be skilled (i.e., require the skills, knowledge and education of a certified SLP to assess the beneficiary for deficits, develop a treatment

program and provide therapy). Interventions that could be provided by another practitioner (e.g., teacher, registered nurse [RN], licensed physical therapist [PT], licensed occupational therapist [OT], family member, or caregiver) would not be reimbursed as speech therapy by MDCH. For beneficiaries of all ages, therapy is **not** covered:

- When provided by an independent SLP.
- For educational, vocational, social/emotional, or recreational purposes.
- If services are required to be provided by another public agency (e.g., PIHP/CMHSP provider, SBS).
- When intended to improve communication skills beyond premorbid levels (e.g., beyond the functional communication status prior to the onset of a new diagnosis or change in medical status).
- If it requires PA but is rendered before PA is approved.
- If it is habilitative. Habilitative treatment includes teaching someone communication skills for the first time without compensatory techniques or processes. This may include syntax or semantics (which are developmental) or articulation errors that are within the normal developmental process.
- If it is designed to facilitate the normal progression of development without compensatory techniques or processes.
- If continuation is maintenance in nature.
- If provided to meet developmental milestones.
- If Medicare does not consider the service medically necessary.

[] DUPLICATION OF SERVICES

Some areas (e.g., dysphagia, assistive technology) may appropriately be addressed by more than one discipline (e.g., OT, PT, speech therapy) in more than one setting. MDCH does not cover duplication of services, i.e., where two disciplines are working on similar areas/goals. It is the treating therapist's responsibility to communicate with other practitioners, coordinate services, and document this in his reports.

[] SERVICES TO SCHOOL-AGED BENEFICIARIES

School-aged beneficiaries may be eligible to receive speech-language therapy through multiple sources. Educational speech is expected to be provided by the school system and is not covered by MDCH or CSHCS. Examples of educational speech include enhancing vocabulary, improving sentence structure, improving reading, increasing attention span, and identifying colors and numbers. Only medically necessary therapy may be provided in the outpatient setting. Coordination between all speech therapy providers should be continuous to ensure a smooth transition

between sources. Outpatient therapy provided to school-aged children during the summer months in order to maintain the therapy services provided in the school are considered a continuation of therapy services when there is no change in beneficiary diagnosis or function. Prior authorization is required before initiating a continuation of therapy. If a school-aged beneficiary receives medically necessary therapy services in both a school setting (as part of an Individualized Education Plan [IEP]) and in an outpatient setting, coordination of therapy between the providers is required. Providers are to maintain documentation of coordination in the beneficiary's file.

....

MPM, §§5.3 through 5.3B, Outpatient Therapy, pp.
18-20, July 1, 2013

The Department's witness ██████████ testified that there was inadequate response to request[s] for additional information submitted by the Department that would have enabled Department reviewers to properly evaluate the medical necessity of the Appellant's request for services.

██████████ testified that the proposed therapies sounded in a "habilitative" nature – but not in medical necessity. There was no information received regarding coordination with the Appellant's school system nor was the issue of Appellant "progress" adequately demonstrated for the Department reviewers.

██████████ added, however, that the Department welcomed a resubmission of the PA.³

The Appellant's representative testified that some of this requested material simply "did not exist" while other material had been sent – but was not received by the Department - including the IEP.

On review given the adequacy of notice provided by the department and the ad hoc response from the Appellant and his provider[s] the Department properly denied the Appellant's request for prior authorization of speech therapy.

The Appellant must prove, by a preponderance of evidence, that he met the criteria for Medicaid-covered speech therapy. The Appellant failed to provide sufficient credible testimony or supporting evidence that his speech therapy needs were medically based.

³ See MPM §§5.C and 5.D, Out Patient Therapy, pp. 21-24, ██████████

[REDACTED]
Docket No. 2013-23159 PA
Decision & Order

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 PA of speech therapy.

IT IS THEREFORE ORDERED that:

The Department's decision is AFFIRMED.

lsl

Dale Malewska
Administrative Law Judge
for James K. Haveman, Director
Michigan Department of Community Health

[REDACTED]
cc: [REDACTED]

Date Signed: 7/1/2013

Date Mailed: 7/1/2013

***** NOTICE *****

The Michigan Administrative Hearings 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 Hearings 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.