

**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:

██████████,

Appellant.

_____ /

Docket No. 2013-31918 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 a request for a hearing filed on behalf of the minor Appellant.

After due notice, a hearing was held on ██████████. ██████████, Appellant's father, appeared and testified on his behalf. Appellant's mother was also present during the hearing. ██████████, the Appeals Coordinator for ██████████ of Michigan, represented the Medicaid Health Plan (MHP). Dr. ██████████, ██████████ Medical Director; also appeared as a witness for the MHP.

ISSUE

Did the MHP properly deny Appellant's request for speech therapy services?

FINDINGS OF FACT

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

1. Appellant was born on ██████████ and was almost █ years-old at the time of the hearing. (Respondent's Exhibit A, page 5).
2. On ██████████, the MHP received a request made on behalf of Appellant for speech therapy services. (Respondent's Exhibit A, page 5).
3. Attached to that request was a report from the Rehabilitation Services ██████████ regarding a speech/language pathology initial evaluation completed with respect to Appellant. (Respondent's Exhibit A, pages 6-9).
4. That report, which was sought because of concerns that Appellant was not speaking at age 2, indicated a diagnosis of severe receptive and expressive language delay. (Respondent's Exhibit A, page 6).

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5. The report also indicated that, while Appellant attends the Head Start program at his local school, Appellant's father was uncertain if Appellant received speech and language services there. (Respondent's Exhibit A, page 8).
6. The report further contained a plan and recommendation for speech therapy services. (Respondent's Exhibit A, page 7).
7. On ██████████, the MHP sent Appellant written notice that the request for speech therapy services was denied. (Respondent's Exhibit A, pages 10-13).
8. Regarding the reason for the denial, the notice provided:

Per the Molina Healthcare of Michigan member kit, evidence of coverage section, speech therapy to treat delays in speech development (progress) is not covered. This service may be provided through another public agency via the intermediate school district (Example: Early On or Project Find). Additionally, per the Michigan Department of Community Health Medicaid Provider Manual, Outpatient Therapy, 5.3.B Speech Therapy, Services to School-Age Beneficiaries, speech therapy is not covered when required to be provided by school-based services or when provided to meet developmental milestones. [Respondent's Exhibit A, page 10.]

9. On ██████████, the Michigan Administrative Hearing System (MAHS) received a request for hearing filed on behalf of Appellant. (Petitioner's Exhibit 1, page 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 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 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.

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

However, a MHP, must also operate consistent with all applicable Medicaid Provider Manuals and publications for coverage and limitations. Here, the pertinent sections of the Michigan Medicaid Provider Manual (MPM) are as follows:

5.3 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-

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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).
- 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

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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 [LPT], registered occupational therapist [OTR], 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.

5.3.A. 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.

5.3.B. 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. **(text added per bulletin MSA 12-02).** [MPM, October 1, 2012 version, Outpatient Therapy Chapter, pages 7-9.]

Here, the Appellant was █████ years-old at the time of the denial and he has been diagnosed with a severe receptive and expressive language delay. However, while he may have a need for speech therapy, Medicaid policy clearly states that speech therapy that is habilitative, developmental, or required to be provided by another public agency is not covered by the MHP. Based upon available evidence, the requested therapy services in this case are habilitative and developmental. Moreover, it further appears that the Appellant is eligible to receive some speech therapy services through the school district. While Appellant's father asserts that he was verbally informed that the school does not have speech therapy services, there is no written denial of such services and the request submitted to the MHP only indicates that Appellant's father was uncertain whether Appellant was receiving speech therapy in his school. Accordingly, the MHP denial was consistent with the Medicaid policy and must be

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upheld.

As noted during the telephone hearing proceedings, Appellant and his representative should pursue speech therapy services through Appellant's school.

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 speech therapy.

IT IS THEREFORE ORDERED that:

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



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

SK/skb

cc:



Date Signed: May 16, 2013

Date Mailed: 5/17/2013

***** 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 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.