

**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. 2013-32265 PA
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 the Appellant's request for a hearing.

After due notice, a hearing was held ██████████. Appellant appeared and testified on her own behalf. ██████████, Appeals Review Officer, represented the Michigan Department of Community Health ("MDCH" or "Department"). ██████████, Department Analyst, appeared as a witness for the Department.

ISSUE

Did the Department properly deny Appellant's prior authorization request for custom foot orthotics?

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 is a ██████ year-old female who has been diagnosed with Pes Planus and Hallux Valgus. (Respondent's Exhibit A, page 5).
2. On or about ██████████, the Department received a prior authorization request on behalf of Appellant for custom foot orthotics. The prior authorization request also listed Appellant's two diagnoses. (Respondent's Exhibit A, page 5).
3. On ██████████, the Department sent Appellant a written notification that her prior authorization request was being denied on the basis that: "Shoes and inserts are noncovered for the conditions of: Pes Planus or Talipes Planus (flat foot), Adductus metatarsus, Calcaneus Valgus, Hallux Valgus. Standard shoes are also noncovered." (Respondent's Exhibit A, page 6).
4. On ██████████, the Michigan Administrative Hearing System (MAHS)

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received a request for hearing filed by Appellant. (Respondent's Exhibit A, page 4).

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.

Medicaid covered benefits are addressed for the practitioners and beneficiaries in the Medicaid Provider Manual (MPM). With respect to Prior Authorization requests, the MPM 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 non-covered 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 non-enrolled providers. [MPM, October 1, 2012 version, Practitioner Chapter, Sections 1.10.]

Moreover, with respect to orthopedic footwear, the MPM specifically states:

2.24 ORTHOPEDIC FOOTWEAR

Definition

Orthopedic footwear may include, but are not limited to, orthopedic shoes, surgical boots, removable inserts, Thomas heels, and lifts.

Standards of Coverage

Orthopedic shoes and inserts may be covered if any of the following applies:

- Required to accommodate a leg length discrepancy of $\frac{1}{4}$ inch or greater or a size discrepancy between both feet of one size or greater.
- Required to accommodate needs related to a partial foot prosthesis, clubfoot, or plantar fasciitis.
- Required to accommodate a brace (extra depth only are covered).

Surgical Boots or Shoes may be covered to facilitate healing following foot surgery, trauma or a fracture.

Noncovered Items

Shoes and inserts are noncovered for the conditions of:

- Pes Planus or Talipes Planus (flat foot)
- Adductus metatarsus
- Calcaneus Valgus
- Hallux Valgus

Standard shoes are also noncovered.

Documentation

Documentation must be less than 60 days old and include the following:

- Diagnosis/medical condition related to the service requested.
- Medical reasons for specific shoe type and/or modification.
- Functional need of the beneficiary.

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- Reason for replacement, such as growth or medical change.

CSHCS requires a prescription from an appropriate pediatric subspecialist.

PA Requirements

PA is not required for the following items if the Standards of Coverage are met:

- Surgical boots or shoes.
- Shoe modifications, such as lifts, heel wedges, or metatarsal bar wedges up to established quantity limits.
- Orthopedic shoe to accommodate a brace.
- Orthopedic shoes and inserts when the following medical conditions are present:
 - > Plantar Fascial Fibromatosis
 - > Unequal Leg Length (Acquired)
 - > Talipes Equinovarus (Clubfoot)
 - > Longitudinal Deficiency of Lower Limb, Not Elsewhere Classified
 - > Unilateral, without Mention of Complication (Partial Foot Amputation)
 - > Unilateral, Complicated (Partial Foot Amputation)
 - > Bilateral, without Mention of Complication (Partial Foot Amputation)
 - > Bilateral, Complicated (Partial Foot Amputation)

PA is required for:

- All other medical conditions related to the need for

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orthopedic shoes and inserts not listed above.

- All orthopedic shoes and inserts if established quantity limits are exceeded.
- Medical need beyond the Standards of Care.
- Beneficiaries under the age of 21, replacement within six months.
- Beneficiaries over the age of 21, replacement within one year.

Payment Rules

These are purchase only items.

[MPM, October 1, 2012 version, Medical Supplier Chapter, pages 49-50.]

Here, the only two diagnoses identified in the prior authorization request are Pes Planus and Hallux Valgus. As described above in the MPM, orthopedic footwear is expressly noncovered for those two conditions. Accordingly, the Department properly denied Appellant's prior authorization request.

Appellant does note that she has also been diagnosed with osteoarthritis and, as indicated by the Department's witness, osteoarthritis may be a covered diagnosis with respect to orthopedic footwear. Appellant is free to submit a prior authorization based on that diagnosis in the future. However, given the specific provisions of the MPM described above, the decision at issue in this case is affirmed.


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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 prior authorization request for custom foot orthotics.

IT IS THEREFORE ORDERED that:

The Department's decision is **AFFIRMED**.

Steven Kibit

Steven Kibit
Administrative Law Judge
for James K. Haveman, Director


Date Signed: May 17, 2013

Date Mailed: 5/17/2013

cc: 

***** 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.