

**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. 2013-32860 QHP
Case No. ██████████

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 ██████████. ██████████, Appellant's legal guardian, appeared and testified on Appellant's behalf. ██████████, Inquiry Dispute Appeal Resolution Coordinator represented ██████████ of Michigan, the Medicaid Health Plan (MHP). Dr. ██████████, Medical Director, appeared as a witness for the MHP.

ISSUE

Did the MHP properly deny Appellant's request for orthopedic foot wear?

FINDINGS OF FACT

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

1. The Appellant is an ██████ year-old male Medicaid beneficiary who is currently enrolled in the Respondent MHP. (Exhibit A, p 8).
2. On or about ██████████, the MHP received a Prior Authorization request for orthopedic foot wear based on Appellant being diagnosed with Pes Planus, Congenital (flat foot); Abnormality of Gait. (Exhibit A, p. 8-11).
3. On ██████████, the MHP sent a denial notice to the Appellant, stating that the Prior Authorization request was denied because the requested service is not a covered benefit under the ██████████ Evidence of Coverage Guidelines. (Exhibit A, p. 11).

**Docket No. 2013-32860 QHP
Decision and Order**

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

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.

**Docket No. 2013-32860 QHP
Decision and Order**

- 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.*

Appellant's legal guardian testified that a request was made for the orthopedic foot wear because Appellant is in pain all of the time, and she does not know what to do for Appellant. Appellant's legal guardian stated that Appellant needs something to prevent the pain.

The MHP denied Appellant's request on the basis that it is not a covered benefit. As stated in the Department-MHP contract language above, a MHP, "must operate consistent with all applicable Medicaid Provider Manuals and publications for coverages and limitations." The pertinent section of the Michigan Medicaid Provider Manual (MPM) states:

2.26 ORTHOTICS (LOWER EXTREMITY)

Definition Lower extremity orthotics includes, but is not limited to, hip, below knee, above knee, knee, ankle, and foot orthoses, etc.

Standards of Coverage

Lower extremity orthotics are covered to:

Docket No. 2013-32860 QHP
Decision and Order

- Facilitate healing following surgery of a lower extremity.
- Support weak muscles due to neurological conditions.
- Improve function due to a congenital paralytic syndrome (i.e., Muscular Dystrophy).

Medicaid Provider Manual; Medical Supplier, Version Date: January 1, 2013.

The MHP's limitation on services or supplies must be consistent with the Michigan Medicaid policy. According to the MHP's coverage guidelines, ankle-foot orthotics are prescribed for a variety of conditions for ambulatory patients, including congenital anomalies, pronation of the ankle, tendon problems, arthritis and amputation; however, flat feet is not one of the conditions. Since the MHP's coverage guidelines are not inconsistent with Medicaid policy, the denial of Appellant's request must be upheld.

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 orthopedic foot wear.

IT IS THEREFORE ORDERED that:

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

ls\

Marya A. Nelson-Davis
Administrative Law Judge
for James K. Haveman, Director
Michigan Department of Community Health

Date Signed: 7/22/2013

Date Mailed: 7/22/2013

cc:

[Redacted]

Docket No. 2013-32860 QHP
Decision and Order

***** 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.