

**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. 2013-52287 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 by Appellant.

After due notice, a hearing was held on ██████████. Appellant appeared and testified on his own behalf. Attorney ██████████ appeared on behalf of ██████████, ██████████, the Respondent Medicaid Health Plan ("MHP). ██████████, Member Satisfaction Coordinator, testified as a witness for Respondent.

ISSUE

Did the MHP properly deny Appellant's request for an ultrasonic bone growth stimulator?

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 man enrolled as a member in the Respondent MHP. (Respondent's Exhibit A, page 2; Testimony of Madden).
2. On or about ██████████, the MHP received a request made on behalf of Appellant by Appellant's doctor for an ultrasonic bone growth stimulator. (Respondent's Exhibit A, pages 2-6).
3. The equipment was requested for the time period of ██████████ to ██████████ ██████████ and was to be used to help treat a metatarsal fracture. (Respondent's Exhibit A, page 2).
4. In notices dated ██████████013, the MHP sent Appellant, Appellant's doctors, and the provider of the equipment, written notice that the request was being denied. (Respondent's Exhibit A, pages 7-18).

**Docket No. 2013-52287 QHP
Decision and Order**

5. Regarding the reason for the denial, the notice provided that:

This decision is based on Medical Director review of available information and the Michigan Department of Community Health (MDCH) Provider Manual that shows Ultrasonic Osteogenesis Stimulators are not a covered benefit. The requested DME item is not covered. [Respondent's Exhibit A, page 8.]

6. On [REDACTED], the Michigan Administrative Hearing System (MAHS) received a request for hearing filed by Appellant. (Respondent's Exhibit A, 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.

In 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.

In this case, the MHP denied Appellant's request on the basis that the requested equipment was not covered under the provisions of the Michigan Medicaid Provider Manual (MPM).

As stated in the applicable version of that manual, certain items are expressly noncovered under policy:

1.10 NONCOVERED ITEMS [CHANGE MADE 4/1/13]

Items that are not covered by Medicaid include, but are not limited to:

* * *

- Ultrasonic osteogenesis stimulators

[MPM, April 1, 2013 version, Medical Supplier Chapter, pages 17-19.]

Docket No. 2013-52287 QHP
Decision and Order

Appellant argues in response that his doctor prescribed the equipment and that it would help his fracture heal. He also noted that he disagreed with the policy as a whole.

Appellant bears the burden of proving by a preponderance of the evidence that the MHP erred in denying his request. Here, Appellant has failed to meet that burden of proof as the MPM clearly provides that the ultrasonic bone growth stimulator requested by Appellant is not covered. This Administrative Law Judge, like the MHP, is bound by the applicable policy and that policy clearly provides that Appellant's request be denied.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the MHP properly denied Appellant's request for an ultrasonic bone growth stimulator.

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

Date Signed: 7/29/2013

Date Mailed: 7/29/2013

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 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.