

**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:

**Docket No.** 2013-56794 QHP  
**Case No.** [REDACTED]

[REDACTED]  
Appellant  
\_\_\_\_\_ /

**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 [REDACTED]. Appellant appeared on his own behalf. Alexandria [REDACTED], Inquiry Dispute Appeals Resolution Coordinator, represented [REDACTED] of Michigan, the Medicaid Health Plan ("MHP"). Dr. [REDACTED], Medical Director, appeared as a witness for the MHP.

**ISSUE**

Did the MHP properly deny Appellant's request for enteral nutrition (Nepro)?

**FINDINGS OF FACT**

Based upon the competent, material, and substantial evidence presented, I find, as material fact:

1. Appellant is a [REDACTED]-year-old Medicaid beneficiary who is currently enrolled in the Respondent MHP. (Exhibit 1; Testimony)
2. On or about [REDACTED], the MHP received a prior authorization request for enteral nutrition (Nepro) from the Appellant's healthcare provider. (Exhibit A, p 38-39)
3. On [REDACTED], the MHP sent Appellant and his healthcare provider a denial notice stating that the prior authorization request was denied based on policy found in the Medicaid Provider Manual, Medical Supplier section. (Exhibit A, pp 38-39)
4. On [REDACTED], Appellant's Request for Hearing was received by the Michigan Administrative Hearing System. (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.

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.
- 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.*

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:

## **2.13 ENTERAL NUTRITION**

Enteral nutrition is nutrition administered by tube or orally into the gastrointestinal tract. Enteral nutrition is classified into categories that possess similar characteristics. Categories for enteral nutrition are listed by HCPCS codes on the MDCH Medical Supplier/DME/Prosthetics and Orthotics Database on the MDCH website. For the appropriate HCPCS code, products are listed on the enteral nutrition product classification list on the website for the Medicare Pricing, Data Analysis and Coding (PDAC) contractor. If the formula is not listed in the covered HCPCS codes, the provider must contact the PDAC contractor for a coding determination. (Refer to the Directory Appendix for website and contact information.)

### **2.13.A. ENTERAL NUTRITION (ADMINISTERED ORALLY)**

### **Standards of Coverage**

Enteral nutrition (administered orally) may be covered for beneficiaries under the age of 21 when:

- A chronic medical condition exists resulting in nutritional deficiencies and a three month trial is required to prevent gastric tube placement.
- Supplementation to regular diet or meal replacement is required, and the beneficiary's weight-to-height ratio has fallen below the fifth percentile on standard growth grids.
- Physician documentation details low percentage increase in growth pattern or trend directly related to the nutritional intake and associated diagnosis/medical condition.

**For CSHCS coverage**, a nutritionist or appropriate pediatric subspecialist must indicate that long-term enteral supplementation is required to eliminate serious impact on growth and development.

For beneficiaries age 21 and over:

- The beneficiary must have a medical condition that requires the unique composition of the formula nutrients that the beneficiary is unable to obtain from food.
- The nutritional composition of the formula represents an integral part of treatment of the specified diagnosis/medical condition.
- The beneficiary has experienced significant weight loss.

**Documentation** Documentation must be less than 30 days old and include:

- Specific diagnosis/medical condition related to the beneficiary's inability to take or eat food.
- Duration of need.

- Amount of calories needed per day.
- Current height and weight, as well as change over time. (For beneficiaries under 21, weight-to-height ratio.)
- Specific prescription identifying levels of individual nutrient(s) that is required in increased or restricted amounts.
- List of economic alternatives that have been tried.
- Current laboratory values for albumin or total protein (for beneficiaries age 21 and over only).

For continued use beyond 3-6 months, **the CSHCS Program requires** a report from a nutritionist or appropriate pediatric subspecialist.

**PA Requirements:** PA is required for all enteral formula for oral administration.

*Medicaid Provider Manual  
Medical Supplier Section  
July 1, 2013, pp 32-33*

The Medical Director testified that Appellant's request for enteral nutrition (Nepro) was denied because there was no medical documentation showing that Appellant had a medical condition that required the unique composition of the formula nutrients that the beneficiary is unable to obtain from food or that the nutritional composition of the formula represents an integral part of treatment of Appellant's diagnosis/medical condition (end stage renal failure). The Medical Director also testified that the information provided from Appellant's healthcare provider did not show that Appellant had any significant weight loss.

Appellant testified that he has had significant weight loss of approximately 55 pounds. Upon questioning, Appellant indicated that he had weighed 247 pounds, dropped to 193 pounds, and currently weighs approximately 210 pounds. Appellant indicated that he is approximately 5 feet 11 inches tall.

Under its contract with the Department, an MHP may devise criterion for coverage of medically necessary services, as long as those criteria do not effectively avoid providing medically necessary services. The MHP's enteral nutrition (Nepro) prior approval process is consistent with Medicaid policy and allowable under the DCH-MHP contract provisions. A close look at the documentation submitted by Appellant's healthcare

provider supports the MHP's position that the provider failed to show that Appellant had a medical condition that required the unique composition of the formula nutrients that the beneficiary is unable to obtain from food or that the nutritional composition of the formula represents an integral part of treatment of Appellant's medical condition (end stage renal failure). The medical documentation submitted with Appellant's request also failed to show that Appellant had any significant weight loss. And while Appellant did lose a significant amount of weight over a three month period, he has gained some of that weight back and the MHP can only base its decision on the information provided with the prior authorization request. The MHP's determination is upheld based on the documentation submitted with the prior authorization request.

**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 enteral nutrition (Nepro) based on the submitted documentation.

**IT IS THEREFORE ORDERED** that:

The Medicaid Health Plan's decision is AFFIRMED.



Robert J. Meade  
Administrative Law Judge  
for James K. Haveman, Director  
Michigan Department of Community Health

[REDACTED]  
cc: [REDACTED]

Date Signed: September 4, 2013

Date Mailed: September 4, 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 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.