

**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. 2013-62355 QHP

██████████

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 42 CFR 431.200 *et seq.*, upon the Appellant's request for a hearing.

After due notice, a hearing was held on ██████████. The Appellant was represented by her authorized representative ██████████. ██████████, Appeals Coordinator, represented the Medicaid Health Plan (MHP), ██████████. ██████████, Medical Director appeared as a witness for the MPH.

ISSUE

Did the MHP properly deny the Appellant's request for lower extremity 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. The Appellant is a ██████-year-old (DOB ██████████) Medicaid beneficiary. (Testimony).
2. On or about ██████████, the MHP received a request for a custom ██████████ AFO ankle brace (a lower extremity orthotic) for the Appellant. (Exhibit A, pp. 4-9 and testimony).
3. The Appellant has a history of an auto accident that shattered her right ankle and has had pins placed in the ankle. She had multiple surgeries for scar tissue debridement, and developed OA of the medial malleolus (ankle). Appellant last had surgery in ██████████ for removal of the anterior ankle joint spur. (Exhibit A, pp. 7, 9 and testimony).

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4. On [REDACTED], the MHP sent the Appellant, her doctor, and [REDACTED] her provider notice that the request for lower extremity orthotics for the Appellant was denied because it is not a covered benefit under the MHP. The notice states that the request was denied based on MDCH Medical Supplier 2.26 Orthotic (Lower Extremity) criteria. The medical information supplied with the prior authorization request did not meet the criteria for authorization of the requested device. (Exhibit A, pp. 10-11 and testimony).
5. The policy in the Michigan Department of Community Health Medicaid Provider Manual says lower extremity orthotics are covered to facilitate healing following surgery of a lower extremity; to support weak muscles due to neurological conditions; and, to Improve function due to a congenital paralytic syndrome (i.e., Muscular Dystrophy). (Exhibit A, pp. 2-3 and testimony).
6. On [REDACTED], the Michigan Administrative Hearing System received the Request for Hearing submitted on the Appellant's behalf. (Exhibit)

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.

The Respondent is one of those MHPs.

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. The Contractor must operate consistent with all applicable Medicaid provider manuals and publications for coverages and limitations. 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 2.024.

Section 1.022(E)(1), Covered Services.

*MDCH contract (Contract) with the Medicaid Health Plans,
October 1, 2009.*

1. The major components of the Contractor's utilization management (UM) program 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 UM activities of the Contractor must be integrated with the Contractor's QAPI program.

2. Prior Approval Policy and Procedure

The Contractor must establish and use a written prior approval policy and procedure for UM purposes. The Contractor may not use such policies and procedures to avoid providing medically necessary services within the coverages 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 UM decisions be made by a health care professional who has appropriate clinical expertise regarding the service under review.

*Section 1.022(AA), Utilization Management,
MDCH contract (Contract) with the Medicaid Health Plans,
October 1, 2009.*

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 sections of the Michigan Medicaid Provider Manual are as follows:

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.

Lower extremity orthotics are covered to:

- 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).

Documentation

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

- Diagnosis/medical condition related to the service requested.
- Medical reasons for appliance requested including current functional level.
- A physical therapy evaluation may be required on a case-by-case basis when PA is required.
- Reason for replacement, such as growth or medical change.
- Prescription from an appropriate pediatric subspecialist is **required under the CSHCS program**.
- Medical justification for each additional component required.

For repairs, a new prescription is not required if the original orthotic was covered by MDCH. A copy of the original prescription for the orthotic and itemization of materials used to repair appliance and rationale for related labor costs must be documented. [*Medicaid Provider Manual, Medical Supplier Section*, July 1, 2013, pp. 51-52].

██████████ testified for the MPH that the lower extremity orthotics requested for the Appellant is not a covered service through the MPH. He stated the information submitted along with the request for the orthotics did not show that the Appellant had a recent surgery, weak muscles due to neurological conditions, or a congenital paralytic syndrome that meets the criteria for approval of a lower extremity orthotic. ██████████ stated the ankle brace was being requested based on the Appellant's ankle arthritis, and Medicaid does not cover such orthotics to support an individual's arthritic condition.

The Appellant's representative testified the Appellant was a ██████ year-old person who has a son. She lives on the second floor of her building. The Appellant's witness stated the Appellant's arthritis affects her ability to do her daily tasks. She further stated she would

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be providing updated information to the provider so that a new request for prior authorization can be submitted for the previously requested ankle brace.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that that the MHP properly denied the Appellant's request for lower extremity orthotics.

IT IS THEREFORE ORDERED that:

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

William D Bond

William D. Bond
Administrative Law Judge
for James K. Haveman, Director
Michigan Department of Community Health

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

WDB/db

cc: [REDACTED]

***** 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.