

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. 2013-65315 QHP

██████████,

██████████

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 on ██████████. The Appellant appeared and testified on his own behalf. ██████████, Director of Customer Service, ██████████ appeared on behalf of the ██████████). ██████████, R.N., Referral Supervisor appeared as a witness for the ██████████. ██████████, Supervisor of Denial and appeals was present but did not testify. ██████████ a certified interpreter from ██████████ assisted with translation for the Appellant in ██████████.

ISSUE

Did the ██████████ properly deny the Appellant's request for bilateral laser vein ablation?

FINDINGS OF FACT

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

1. The Appellant is a Medicaid beneficiary who is currently enrolled in the Respondent ██████████.
2. On ██████████ the ██████████ received Appellant's request for bilateral endovenous laser ablation to the greater saphenous veins. (Exhibit A, pp. 4-8).

3. On ██████████ the ██████████ sent the Appellant a denial notice, stating that the request for bilateral vein ablation was denied because there was no information indicating the Appellant had an Analgesic Regime that has failed; there was no indication Veins have been bleeding or infected; and, there was no indication of ██████████ being worn. (Exhibit A, pp. 11-13).
4. On ██████████, a Level I appeal was reviewed by the ██████████ board-certified physician reviewer with the same or similar specialty as the requesting doctor, and the initial denial was upheld for the same reasons stated in the initial denial. (Exhibit A, pp. 17-18).
5. On ██████████, a Level II appeal was reviewed by the ██████████ physician reviewers on the Quality Improvement Committee with the same or similar specialty as the requesting doctor, and the denial was upheld for the reason that the request did not meet the criteria for vein ablation. (Exhibit A, pp. 24-25).
6. On ██████████, the 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 MHPs.

The Respondent is one of those ██████████

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:

- (a) Written policies with review decision criteria and procedures that conform to managed health care industry standards and processes.
- (b) A formal utilization review committee directed by the Contractor's medical director to oversee the utilization review process.
- (c) Sufficient resources to regularly review the effectiveness of the utilization review process and to make changes to the process as needed.
- (d) An annual review and reporting of utilization review activities and outcomes/interventions from the review.
- (e) 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-██████████ contract language above, a ██████████ "must operate consistent with all applicable Medicaid Provider Manuals and publications for coverages

and limitations.” The pertinent sections of the Michigan Medicaid Provider Manual (MPM) state:

SECTION 12 – SURGERY – GENERAL

Medicaid covers medically necessary surgical procedures.

*Michigan Department of Community Health,
Medicaid Provider Manual, Practitioner
Version Date: July 1, 2013, Page 57*

13.3 COSMETIC SURGERY [RE-NUMBERED 4/1/12]

Medicaid only covers cosmetic surgery if PA has been obtained. The physician may request PA if any of the following exist:

- The condition interferes with employment.
- It causes significant disability or psychological trauma (as documented by psychiatric evaluation).
- It is a component of a program of reconstructive surgery for congenital deformity or trauma.
- It contributes to a major health problem.

The physician must identify the specific reasons any of the above criteria are met in the PA request.

Physicians should refer to the General Information for Providers Chapter for specific information for obtaining authorization.

*Michigan Department of Community Health,
Medicaid Provider Manual, Practitioner
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The DCH-██████████ contract provisions allow prior approval procedures for utilization management purposes. The ██████████ reviewed this prior approval request under the ██████████, Varicose Veins. (Exhibit A, pp. 9-10) This Policy Statement sets forth the criteria for determining when such procedures as endovenous laser ablation are medically necessary versus cosmetic and not covered by the ██████████. The policy states in part:

PROCEDURE:

██████████ ██████████ ██████████ considers varicose vein excision, ligation, radiofrequency endovenous occlusion, liquid of foam sclerotherapy, and

endovenous laser ablation of the saphenous vein medically necessary when the following criteria are met:

- Incompetence (i.e., reflux) at the saphenofemoral junction or saphenopopliteal junction or greater saphenous vein or lesser saphenous vein is documented by Doppler or duplex ultrasound scanning; ***and***
- Saphenous varicosities result in two or more of the following:
 - Intractable ulceration secondary to venous stasis
 - More than one episode of minor hemorrhage from a ruptured superficial varicosity; or a single significant hemorrhage from a ruptured superficial varicosity
 - Saphenous varicosities result in Recurrent superficial thrombophlebitis
 - Severe and persistent pain and swelling interfering with activities of daily living and requiring chronic analgesic medication.
- ***and*** symptoms persist despite a prescribed and documented three-month trial of conservative management

These procedures are considered cosmetic for all other indications.

[Exhibit A, p. 9].

In the present case, the ████████ witness testified that on ████████, they reviewed a request for bilateral endovenous laser ablation to the Appellant's greater saphenous veins. (Exhibit A, pp. 4-8 and testimony). On ████████, the ████████ sent Appellant a denial notice, stating that the request for bilateral vein ablation was denied because there was no information indicating the Appellant had an Analgesic Regime that has failed; there was no indication Veins have been bleeding or infected; and, there was no indication of ████████ being worn. The ████████ witness testified they reviewed all the medical documentation submitted along with the Appellant's request for the bilateral vein ablation and found that the information submitted did not show that the Appellant's condition met the eligibility criteria quoted above for it to be medically necessary.

The Appellant testified that he went to ████████ who indicated he needed surgery. Appellant said he wore stretch hose and did exercises for two year but his condition got worse. He said his left leg up to his thigh has veins popping out of it and it really bothers him. He said his leg was very swollen and he was unable to stand or walk on it for long periods of time. Appellant stated he has been to ████████ specialists and they have both said he needs surgery. Appellant indicated both doctors sent a letter for the requested procedure. Appellant indicated his doctor said he needs the surgery as soon as possible, or he might get blood clots. Appellant said this condition is affecting him a great deal and he is just trying to get his health back. Appellant said he had the ultrasounds on his legs, and he believes he has all the symptoms which would indicate that he is eligible for the requested medical procedure.

[REDACTED]
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The evidence submitted by the [REDACTED] indicates that the documentation submitted for this prior authorization request was insufficient to establish the medical necessity of the requested bilateral laser vein ablation. Specifically, there was no information indicating the Appellant had an Analgesic Regime that had failed; there was no indication Veins had been bleeding or infected; and, there was no indication of [REDACTED] being worn. The [REDACTED] determination must be upheld.

DECISION AND ORDER

The ALJ, based on the above findings of fact and conclusions of law, decides that the [REDACTED] properly denied the Appellant's request for laser ablation treatment for both legs based on the documentation available at that time.

IT IS THEREFORE ORDERED that:

The [REDACTED] 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.