

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF COMMUNITY HEALTH**

P.O. Box 30763, Lansing, MI 48909
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IN THE MATTER OF:

██████████

Appellant

Docket No. 2013-69123 QHP
Case No. ██████████

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge 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 ██████████. Appellant was represented by ██████████. The Medicaid Health Plan (MHP), ██████████ was represented by ██████████, Grievance Coordinator, and ██████████, witness.

ISSUE

Did the MHP properly process and approve Appellant's request for repair of his left hearing aid?

FINDINGS OF FACT

Based on the competent, material, and substantial evidence presented, the Administrative Law Judge finds as material fact:

1. Appellant is a ██████ year-old male Medicaid beneficiary, born ██████████.
2. Appellant has a custom made hearing aid in each ear. Unrefuted evidence is that Appellant needs a hearing aid in each ear due to severe hearing loss.
3. On or about ██████████, the MHP received a Prior Authorization Request from Appellant's physician requesting a left ear hearing aid repair.
4. Sometime after, Appellant's left hearing aid repair was approved, not at issue herein.
5. On ██████████ Appellant filed a Request for Hearing stating in part: "...I can't afford to get my hearing aids....and I really need my hearing aid because I can't hear at all."
6. On ██████████ the MHP requested clarification from Appellant's

physician as to the specific request(s)-whether repair or replacement(s).

7. On ██████████ the MHP issued a letter to Appellant stating in part:

...After review, it was confirmed by ██████ from ██████ that they were not requesting coverage for a right hearing aid. She said that her request was for a left ear hearing aid repair that was approved. Please find the approval letter for the left ear hearing aid repair attached.

8. On ██████████ the MHP filed a Hearing Summary stating:

██████████ has approved this member's request. I have requested that they contact Tribunal to cancel the hearing on ██████.

9. At the administrative hearing, Appellant requested replacement of his right hearing aid he lost playing football.

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 MHPs. The MHP signs a contract with the State of Michigan identifying certain services that are required. The applicable contract to the facts herein states in part:

The covered services that the Contractor has available for enrollees must include, at a minimum, the covered services listed below. 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.

Although the Contractor must provide the full range of covered services listed below they may choose to provide services over and above those specified. The covered services provided to enrollees under this Contract include, but are not limited to, the following:

- Ambulance and other emergency medical transportation
- Blood lead testing in accordance with Medicaid Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) policy
- Certified nurse midwife services
- Certified pediatric and family nurse practitioner services
- Chiropractic services
- Diagnostic lab, x-ray and other imaging services
- Durable medical equipment (DME) and supplies
- Emergency services
- End Stage Renal Disease services
- Family planning services (e.g., examination, sterilization procedures, limited infertility screening, and diagnosis)
- Health education
- Hearing and speech services
- Hearing aids
- Home Health services
- Hospice services (if requested by the enrollee)
- Immunizations
- Inpatient and outpatient hospital services
- Intermittent or short-term restorative or rehabilitative services (in a nursing facility), up to 45 days
- Restorative or rehabilitative services (in a place of service other than a nursing facility)
- Medically necessary weight reduction services
- Mental health care – maximum of 20 outpatient visits per calendar year
- Out-of-state services authorized by the Contractor
- Outreach for included services, especially pregnancy-related and Well child care
- Parenting and birthing classes
- Pharmacy services
- Podiatry services
- Practitioners' services (such as those provided by physicians, optometrists and dentists enrolled as a Medicaid Provider Type 10)
- Prosthetics and orthotics
- Tobacco cessation treatment including pharmaceutical and

- behavioral support
- Therapies (speech, language, physical, occupational) excluding services provided to persons with development disabilities which are billed through Community Mental Health Services Program (CMHSP) providers or Intermediate School Districts.
- Transplant services
- Transportation for medically necessary covered services
- Treatment for sexually transmitted disease (STD)
- Vision services
- Well child/EPSTD for persons under age 21 [Article 1.020 Scope of [Services], at §1.022 E (1) contract, 2010, p. 22].

(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. [Contract, *Supra*, p. 49].

Applicable to the case herein, the HMO pointed out that the Medicaid Provider Manual with regard to Hearing Aid Dealers and Devices states in part:

As required by Executive Order 2009-22, effective for dates of service On or after 07/01/2009, hearing aids are no longer payable for

Beneficiaries age 21 and older.

*Michigan Department of Community Health
Medicaid Provider Manual; Practitioner
Version Date: October 1, 2013
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In this case, there is no issue with regards to the left hearing aid repair as the MHP approved and paid for the repair.

As to Appellant's right hearing aid, at the Administrative Hearing Appellant requested replacement due to it being lost playing football. However, Appellant has not made a formal application of the same and thus, the issue is not technically in front the undersigned Administrative Law Judge (ALJ). However, that being said, the MHP pointed out at the administrative hearing, and, indicated that under federal policy and state law, replacements of hearing aids is not a benefit to Medicaid beneficiaries (see above).

The jurisdiction of an ALJ to review the evidence and to make a determination as to whether the MHP's action(s) are consistent with policy, procedure and not contrary to law. The undersigned ALJ has reviewed the evidence and facts herein, and finds that under the preponderance of evidence standard, the MHP has correctly processed Appellant's requests regarding his hearing aid(s). As there is no hearable issue left to review, Appellant's request is dismissed.

DECISION AND ORDER

Based on the above findings of fact and conclusions of law, the Administrative Law Judge finds that the MHP's actions on Appellant's request(s) for assistance with his hearing aids were correct, and

IT IS THEREFORE ORDERED that:

The MHP's decision is **AFFIRMED**.

Janice Spodarek
Administrative Law Judge
for James K. Haveman, Director
Michigan Department of Community Health

[REDACTED]
cc: [REDACTED]

[REDACTED]
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[REDACTED]
Date Signed: November 26, 2013

Date Mailed: November 26, 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 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.