

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

P.O. Box 30763, Lansing, MI 48909
(517) 335-2484; Fax: (517) 373-4147

IN THE MATTER OF:

██████████

Appellant

Docket No. 14-008652 MHP

██████████

██████████

DECISION AND ORDER

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

After due notice, a hearing was held on ██████████. Appellant appeared and testified on her own behalf. ██████████, Appeals Coordinator, appeared and testified on behalf of ██████████, the Respondent Medicaid Health Plan (MHP).

ISSUE

Did the MHP properly deny Appellant's prior authorization request for the medication Sovaldi?

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 female enrolled in the Respondent MHP. (Respondent's Exhibit A, page 1; Testimony of Appellant).
2. On or about ██████████, the MHP received a prior authorization request submitted on behalf of Appellant by a ██████████ and requesting, among other medications, Sovaldi 400 mg for Appellant. (Respondent's Exhibit A, pages 1-5; Testimony of ██████████).
3. In reviewing that request, MHP staff found that the medication Sovaldi is not on the Michigan Medicaid medication formulary. (Testimony of ██████████).
4. On ██████████, the MHP sent Appellant and her doctor written notice that the prior authorization request was denied. (Respondent's Exhibit B, pages 1-2).

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5. Regarding the reason for the denial, that notice to Appellant stated in part:

The medication that was requested for you was Sovaldi. According to the Medical Service Administration (MSA), a division of the Michigan Department of Community Health (MDCH), this medication is not a covered benefit under Michigan Medicaid. As a result, this request has not been approved. Please contact your doctor to discuss alternatives.

Respondent's Exhibit B, page 1

6. On [REDACTED], the Michigan Administrative Hearing System (MAHS) received the request for hearing filed in this matter. (Petitioner's Exhibit 1, pages 1-2).

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 one of those MHPs and, as provided in the Medicaid Provider Manual (MPM), is responsible for providing covered services pursuant to its contract with the Department:

The Michigan Department of Community Health (MDCH) contracts with Medicaid Health Plans (MHPs), selected through a competitive bid process, to provide services to Medicaid beneficiaries. The selection process is described in a Request for Proposal (RFP) released by the Office of Purchasing, Michigan Department of Technology, Management & Budget. The MHP contract, referred to in this chapter as the Contract, specifies the beneficiaries to be served, scope of the benefits, and contract provisions with which the MHP must comply. Nothing in this chapter should be construed as requiring MHPs to cover services that are not included in the Contract. A copy of the MHP contract is

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available on the MDCH website. (Refer to the Directory Appendix for website information.)

MHPs must operate consistently with all applicable published Medicaid coverage and limitation policies. (Refer to the General Information for Providers and the Beneficiary Eligibility chapters of this manual for additional information.) Although MHPs must provide the full range of covered services listed below, MHPs may also choose to provide services over and above those specified. MHPs are allowed to develop prior authorization requirements and utilization management and review criteria that differ from Medicaid requirements. The following subsections describe covered services, excluded services, and prohibited services as set forth in the Contract.

*MPM, July 1, 2014 version
Medicaid Health Plan Chapter, page 1
(Emphasis added by ALJ)*

Similarly, the MHP's contract with the Department also allows the MHP to develop a prescription drug management program that includes a drug formulary and a process to approve any covered drug:

(7) Pharmacy

The Contractor may have a prescription drug management program that includes a drug formulary. DCH may review the Contractor's formularies regularly, particularly if enrollee complaints regarding access have been filed regarding the formulary. The Contractor must have a process to approve physicians' requests to prescribe any medically appropriate drug that is covered under the Medicaid Pharmaceutical Product List (MPPL).

*Contract No. 071B02000, Print Version 10/13/2014
Article 1.022 Works and Deliverables, pages 28¹*

Here, as testified to by the Respondent's witness ██████████ and pursuant to its contract with the Department and the above policy, the MHP reviews prior authorization requests under the Michigan Medicaid medication formulary/MPPL.

██████████ also established that, on or about ██████████, the MHP received a prior authorization request submitted on behalf of Appellant by a ██████████ and requesting Sovaldi 400 mg for Appellant, and that the request was denied in a written notice sent

¹ A sample MHP contract is available on the Department's website.

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out on ██████████. The reason for the denial was that Sovaldi is not a covered benefit as it is not included on the applicable medication formulary.

In response, Appellant testified that she is only following her doctor's instructions and that he prescribed ████████ medications for her, including Sovaldi. Appellant also testified that, while she has not discussed her treatment options with her doctor since the denial in this case, the doctor's office has indicated that Appellant should not take the other, approved medications without taking the Sovaldi as well.

Appellant has failed to satisfy her burden of proving by a preponderance of the evidence that the MHP improperly denied her prior authorization request for Sovaldi. The requested medication is not included on the applicable formulary and is not covered.

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 prior authorization request for the medication Sovaldi.

IT IS THEREFORE ORDERED that:

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

Steven Kibit

Steven Kibit
Administrative Law Judge
for Nick Lyon, Director
Michigan Department of Community Health

Date Signed: ██████████

Date Mailed: ██████████

SK/db

cc: ██████████

***** NOTICE *****

The Michigan Administrative Hearing System 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.