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:

[redacted]

Docket No. 14-011868 MHP
Case No. [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 Appellant's request for a hearing.

After due notice, a hearing was held [redacted]. [redacted] and [redacted], Appellant's parents, appeared and testified on Appellant's behalf.

[redacted], Supervisor, represented [redacted], the Medicaid Health Plan ("MHP"). [redacted], Medical Director, appeared as a witness for the MHP.

ISSUE

Did the Department properly deny the Appellant's prior-authorization request for Occupational Therapy (OT)?

FINDINGS OF FACT

The Administrative Law Judge (ALJ), based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Appellant is a [redacted] year old Medicaid beneficiary, born [redacted], enrolled with [redacted]. (Exhibit A, p 3; Testimony)

2. On [redacted], Appellant's physician sought prior approval for Occupational Therapy (OT). (Exhibit A, pp 3-4)

3. [redacted] reviewed the request and issued a denial on [redacted], citing internal and Medicaid policy. The denial notice included Appellant's right to a hearing. (Exhibit A, pp 10-14; Testimony)

4. On [redacted], the Michigan Administrative Hearing System received Appellant's hearing request. (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. 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)(1) and (2), Utilization Management, Contract, October 1, 2009.

As it says in the above Department - MHP contract language, a MHP such as [redacted] may limit services to those that are medically necessary and that are consistent with applicable Medicaid Provider Manuals. It may require prior authorization for certain procedures. The process must be consistent with the Medicaid Provider Manual.

With regard to Outpatient Therapy, the Medicaid Provider Manual provides, in pertinent part:

5.1.A. DUPLICATION OF SERVICES

Some therapy areas (e.g., dysphagia, assistive technology, hand therapy) may be appropriately addressed by more than one discipline (e.g., OT, PT, speech therapy) in more than one setting. MDCH does not cover duplication of service (i.e., where two disciplines are working on similar

goals/areas). The OT is responsible to communicate with other therapists and coordinate services. MDCH requires any related documentation to include coordination of services.

5.1.B. SERVICES TO SCHOOL-AGED BENEFICIARIES

School-aged beneficiaries may be eligible to receive OT through multiple sources. MDCH expects educational OT to be provided by the school system, and it is not covered by MDCH or CSHCS. (Example: OT coordination for handwriting, increasing attention span, identifying colors and numbers.)

MDCH only covers medically necessary OT when provided in the outpatient setting. Coordination between all OT providers must be continuous to ensure a smooth transition between sources.

Outpatient therapy provided to school-aged children during the summer months in order to maintain the therapy services provided in the school is considered a continuation of therapy services when there is no change in beneficiary diagnosis or function. Prior authorization is required before initiating a continuation of therapy.

If a school-aged beneficiary receives medically necessary therapy services in both a school setting (as part of an Individualized Education Plan [IEP]) and in an outpatient setting, coordination of therapy between the providers is required. Providers are to maintain documentation of coordination in the beneficiary's file.

Medicaid Provider Manual
Outpatient Therapy Chapter
October 1, 2014, pp 8-9

In addition, the [redacted] Healthcare of Michigan Member Handbook, provides:

Appendix B – Coordination of Care Services

* * * *

L. Developmental Disability Services. Services provided to a Member with a developmental disability and billed through Community Mental Health Services Program providers are

> not covered. Members may be eligible to receive developmental disability services through providers or agencies in their areas as indicated in Appendix B of the Certificate.

The MHP's Medical Director testified that it was explained to Appellant's parents at the previous hearing that the MHP would approve 12 OT sessions to allow coordination with the therapies provided to Appellant through the school district. The MHP's Medical Director indicated that the MHP had requested evidence of this coordination on numerous occasions, but that it had not yet been forthcoming. The MHP's Medical Director testified that he understood that Appellant had an Individualized Education Plain (IEP) through the school and that it was the school's primary responsibility to provide OT. The MHP's Medical Director indicated that he assigned a nurse case manager to Appellant's case so that the family would have a contact person at [redacted] to assist with the approval process. The MHP's Medical Director indicated that once the school begins coordinating its OT with the Outpatient OT provided by the MHP, then more sessions will be approved.

Appellant's father testified that first of all, he does not agree with the MHP that the school district is primarily responsible for providing Appellant all of the therapies that he needs. Appellant's father indicated that they finally just completed the IEP with the school district on [redacted] and that he signed releases which will allow the school's therapists to coordinate with the therapists provided by the MHP. However, Appellant's father indicated that at the IEP meeting, the school's therapists all indicated that the school district is only obligated to provide therapy to Appellant that assists him with his education. For example, Appellant's father indicated that if Appellant cannot walk, but can get to school in a wheelchair, the school is not going to provide him therapy to help him learn to walk. Appellant's father indicated that Appellant has a medical need for therapy unrelated to learning in school and that the MHP should be covering such therapies as Appellant is three years old and still does not walk, among other disabilities.

With regard to coordination, Appellant's father indicated that the family is willing to do whatever they need to do to facilitate coordination between therapists, but that it has been very difficult to communicate with the MHP. Appellant's father outlined some of the difficulties he has had communicating with the MHP and he reiterated that he has signed releases so that all of the therapists can speak to each other. Appellant's father indicated that through the school, Appellant receives OT once per week for about 20 minutes, Physical Therapy (PT) once per week for about 20 minutes, and Speech Therapy (ST) twice per week. Appellant's father indicated that Appellant is only in school four days per week for about 2 ½ hours per day.

Appellant's mother reiterated Appellant's father's concerns regarding the difficulty communicating with the MHP and the fact that Appellant is entitled to more therapy than that provided by the school.

In response, the MHP's Medical Director indicated that everyone wants Appellant to be successful and that he will be more successful if his therapies are coordinated so that they are not in conflict and do not overlap. The MHP's Medical Director indicated that coordination would involve therapists sharing treatment plans, daily notes, and communicating on a regular basis, such as once every 4-6 weeks.

Based on the evidence presented, the MHP properly denied Appellant's request for continued OT based on the lack of coordination with therapies provided through Appellant's school. As indicated above, policy does require that services be coordinated so that they are not duplicated and do not overlap. With that said, the undersigned does not agree with the MHP's position that the school is responsible for providing all of the therapy that Appellant needs. As Appellant's father properly pointed out, policy requires schools to provide therapy related to a student's education and here, it sounds like Appellant requires more therapy than what is being provided through the school district. However, as indicated above, policy also requires coordination of therapies, which has been lacking here. Hopefully, now that Appellant's IEP is complete, and Appellant's parents have signed releases to allow Appellant's therapists to communicate, that coordination can begin. The MHP's Medical Director indicated specifically what this coordination would look like and the MHP has assigned a nurse case manager to assist Appellant's family with this coordination.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the denial of the Appellant's request for prior-authorization for OT was proper based on a lack of coordination of therapies provided by the school and therapies provided by the MHP.

IT IS THEREFORE ORDERED that:

The MHP's decision is AFFIRMED.

Robert J. Meade
Administrative Law Judge
for Nick Lyon, Director
Michigan Department of Community Health

cc: [redacted]

RJM[redacted]

Date Signed: [redacted]

Date Mailed: [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.