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:

Docket No. 14-012001 MHP

[redacted]

Appellant.
_____/

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 the Appellant's request for a hearing.

After due notice, a hearing was held on [redacted]. Appellant appeared and testified on her own behalf. [redacted], Grievance Coordinator, represented [redacted], the Respondent Medicaid Health Plan (MHP). [redacted], registered nurse and Clinical and Quality Review Specialist, testified as a witness for Respondent.

ISSUE

Did the MHP properly deny Appellant's request for a weight management program?

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 [redacted] year-old Medicaid beneficiary who is enrolled in the Respondent MHP. (Respondent's Exhibit A, page 7; Testimony of [redacted]).

2. On or about [redacted], the MHP received a prior authorization request for a [redacted] week Optifast program at [redacted] made on Appellant's behalf by [redacted]. (Respondent's Exhibit A, pages 6-11; Testimony of [redacted]).

3. Medical records attached to the prior authorization request indicated that Appellant weighs [redacted] pounds and has been diagnosed with diabetes mellitus, osteoarthritis in her right knee, an overactive bladder, and obesity. (Respondent's Exhibit A, pages 6-7, 10).

4. On [redacted], the MHP sent Appellant written notice that her request for a weight management program was denied. (Respondent's Exhibit A, pages 12-14).

5. Regarding the reason for the denial, the notice stated that Medicaid only covers treatment of obesity when done for the purpose of controlling life-endangering complications, such as hypertension and diabetes, and that, while the submitted documentation provides that Appellant has diabetes, it also provides that her blood sugars are normal with medication and that her illness is not life-threatening. (Respondent's Exhibit A, page 12).

6. On [redacted] sent a letter to the MHP appealing the denial and stating the treatment would be of great benefit to Appellant. (Respondent's Exhibit A, page 15).

7. The letter also stated that Appellant "has diabetes mellitus type 2 that is uncontrolled (recent increase in HgB A1C requiring increase in insulin), hypertension, right knee arthritis . . . and depression." (Respondent's Exhibit A, page 15).

8. On [redacted] the MHP sent [redacted] written notice that the request was still denied. (Respondent's Exhibit A, page 16).

9. Regarding the reason for the denial, the notice stated:

> Medical records received reflect that [redacted]. [redacted] has diabetes mellitus, type II (controlled), hypertension (controlled), and morbid obesity. Her most recent Hgb-A1C was 7.1% and her last two blood pressure readings were 142/70 ([redacted]) and 128/80 [redacted]. These measurements do not reflect uncontrolled, life endangering conditions, therefore your request is denied.
>
> *Respondent's Exhibit A, page 16*

10. On [redacted] Appellant sent in a request for a local appeal with the MHP. (Respondent's Exhibit A, page 17).

11. In that request, Appellant asserted that her blood sugar levels are not normal and that she suffers from chest pain and shortness of breath. (Respondent's Exhibit A, page 17).

12. While that local appeal was pending, the MHP received additional medical records from Appellant. (Respondent's Exhibit A, pages 22-39; Testimony of [redacted].

13. In those records, it was noted that Appellant was treated for chest pains on [redacted]. (Respondent's Exhibit A, page 26).

14. During that assessment, the doctor determined that Appellant's symptoms were atypical, non-cardiac, and probably related to her body habitus. (Respondent's Exhibit A, page 26).

15. The doctor also determined that Appellant needs extensive diet and lifestyle changes, but that no further workup for her chest pains was necessary. (Respondent's Exhibit A, page 26).

16. The records also included a [redacted] report from [redacted] identifying Appellant's diabetes as controlled and her chest pains as stable. (Respondent's Exhibit A, pages 28-30).

17. On [redacted], the local appeal hearing was held. (Testimony of [redacted]).

18. On [redacted], the MHP sent Appellant written notice that her appeal had been denied and the decision denying her request upheld because her diabetes and blood pressure were controlled. (Respondent's Exhibit A, pages 40-45).

19. On [redacted], the Michigan Administrative Hearing System (MAHS) received the Request for Hearing filed by Appellant in this matter. (Petitioner's Exhibit 1, pages 1-3).

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

As stated above, a MHP "must operate consistent with all applicable Medicaid Provider Manuals and publications for coverages and limitations." Here, the pertinent section of the MPM states:

> **4.21 WEIGHT REDUCTION**
>
> Medicaid covers treatment of obesity when done for the purpose of controlling life-endangering complications, such as hypertension and diabetes. If conservative measures to control weight and manage the complications have failed,

> other weight reduction efforts may be approved. The physician must obtain PA for this service. Medicaid does not cover treatment specifically for obesity or weight reduction and maintenance alone.
>
> The request for PA must include the medical history, past and current treatment and results, complications encountered, all weight control methods that have been tried and have failed, and expected benefits or prognosis for the method being requested. If surgical intervention is desired, a psychiatric evaluation of the beneficiary's willingness/ability to alter his lifestyle following surgical intervention must be included.
>
> If the request is approved, the physician receives an authorization letter for the service. A copy of the letter must be supplied to any other provider, such as a hospital, that is involved in providing care to the beneficiary.
>
> *MPM, October 1, 2014 version*
> *Practitioner Chapter, page 41*

As testified by the MHP's witness, the MHP denied the prior authorization request for a weight management program pursuant to the above policies. Specifically, the MHP's witness testified that, while Appellant has been diagnosed with obesity, Medicaid policy does not cover treatment for obesity alone and, instead, it only covers treatment of obesity when done for the purpose of controlling life-endangering complications and there is no evidence of such complications in this case.

Appellant bears the burden of proving by a preponderance of the evidence that the MHP erred in denying her request. Moreover, this Administrative Law Judge is limited to reviewing the MHP's decision in light of the information it had at the time it made that decision.

In this case, given the information available at the time the MHP made the disputed decision, the undersigned Administrative Law Judge finds that Appellant has failed to meet her burden of proof and the decision to deny the prior authorization request must therefore be affirmed. At various times, Appellant and her doctor broadly stated that Appellant suffers from uncontrolled diabetes, uncontrolled hypertension, or chest pains as life-endangering complications from her obesity. However, there is no specific evidence or medical documentation supporting those broad statements in the documentation submitted to the MHP. For example, while Appellant has been diagnosed with diabetes and the condition is described as uncontrolled in the doctor's letter and the Appellant's appeals, [redacted] identified the diabetes as controlled during the report documenting the actual course of treatment. Similarly, Appellant's medical records and the course of her treatment describe her chest pains as stable and fail to

identify any diagnosis of hypertension at all. Accordingly, the submitted documentation failed to demonstrate that Appellant met all of the requirements for weight reduction services.

To the extent Appellant obtains additional or updated information to regarding her medical conditions or the treatment of those conditions, she is free to have her doctor resubmit the request for a weight management program, along all the relevant documents and information. However, with respect to the decision at issue in this case, the MHP's actions must be affirmed given the available information.

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 request for a weight management program.

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: [redacted]

Date Mailed: [redacted]

SK/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 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.