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.: 14-012673 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 on [redacted]. Appellant appeared on her own behalf. [redacted], Paralegal, represented [redacted], the Medicaid Health Plan (hereinafter MHP). [redacted], Medical Director, appeared as a witness for the MHP.

ISSUE

Did the MHP properly deny the Appellant's request for breast-reduction surgery?

FINDINGS OF FACT

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

1. Appellant is a [redacted]-year-old female Medicaid beneficiary who is currently enrolled in the Respondent MHP. (Exhibit A, p 16)

2. On [redacted], the MHP received a request for breast-reduction surgery from Appellant's physician. Appellant's physician noted that Appellant was complaining of shoulder pain, back pain, neck pain and exercise impairment. Appellant's physician noted that the Appellant did not suffer any pain in her breasts or from any skin irritation in the breast area. (Exhibit A, pp 14-42)

3. On [redacted], the MHP sent Appellant a denial notice, stating that the request for breast-reduction surgery was not authorized under the United Healthcare Guidelines because her essential life functions have not

been limited and there may be other causes for the Appellant's complaints. (Exhibit A, p 3; Testimony)

4. On [redacted], the Michigan Administrative Hearings System (MAHS) received the Appellant's request for hearing. (Exhibit A, p 12)

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. Contractors 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 1-Z.
>
> *Article II-G, Scope of Comprehensive Benefit Package. MDCH contract (Contract) with the Medicaid Health Plans, September 30, 2004.*

> The major components of the Contractor's utilization management plan 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.

The Contractor must establish and use a written prior approval policy and procedure for utilization management 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 utilization management decisions be made by a health care professional who has appropriate clinical expertise regarding the service under review.

Article II-P, Utilization Management, Contract, September 30, 2004.

As stated in the Department-MHP contract language above, a MHP, "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) states:

SECTION 12 – SURGERY – GENERAL

Medicaid covers medically necessary surgical procedures.

Medicaid Provider Manual
Practitioner Chapter
July 1, 2013, p 61

13.3 COSMETIC SURGERY

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.

Medicaid Provider Manual
Practitioner Chapter
July 1, 2013, p 67

Under the DCH-MHP contract provisions, an MHP may devise their own criterion for coverage of medically necessary services, as long as those criterion do not effectively avoid providing medically necessary services.

The MHP utilized its Policy and Procedure Manual, Breast Reduction Surgery section, when reviewing Appellant's prior authorization request, which provides that Reduction Mammaplasty is covered if all of the following criteria are met:

A. Macromastia is the primary etiology of the member's functional impairment or impairments AND
B. The amount of tissue to be removed plots above the 22nd percentile; OR
C. If the amount of tissue to be removed plots between the 5th and 22nd percentiles, the procedure may be either reconstructive or cosmetic; the determination is based on the review of the information provided; AND
D. Diagnostic tests, if done, have ruled out other causes of the functional impairment; AND
E. The proposed procedure is likely to result in significant improvement of the functional impairment.

(Exhibit A, pp 4, 5)

These criteria are consistent with the Medicaid standards of coverage for cosmetic surgery, do not effectively avoid providing medically necessary services and are allowable under the DCH-MHP contract provisions.

The MHP determined that the documentation submitted for the prior authorization request did not meet the above criteria. Specifically, documentation submitted did not show that macromastia was the primary etiology of the member's functional impairments AND diagnostic tests did not rule out other causes of the functional impairment.

Appellant testified that she was from [redacted] and has had these problems for a long time. The Appellant however did not testify to undergoing any other tests to confirm or deny that other causes may be the root of her complaints (i.e. arthritis or other spinal injury).

The documentation provided with the prior authorization request does not establish that Appellant has met the criteria for prior approval of breast-reduction surgery. Medical necessity of the requested procedure was not established based on the information available to the MHP when it reviewed Appellant's prior authorization request. Accordingly, the MHP's denial was proper based on the information available at that time. Appellant can re-submit for prior approval at any time with additional supporting documentation.

DECISION AND ORDER

The ALJ, based on the above findings of fact and conclusions of law, decides that the MHP properly denied Appellant's request for breast-reduction surgery based on the available information.

IT IS THEREFORE ORDERED that:

The MHP's decision is AFFIRMED.

Corey Arendt
Administrative Law Judge
for Director, Nick Lyon
Michigan Department of Community Health

Date Signed: [redacted]

Date Mailed: [redacted]

CA[redacted]

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.