

**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. 14-014203 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 his own behalf. ██████████, Grievance Coordinator, represented ██████████, the Respondent Medicaid Health Plan (MHP). ██████████, registered nurse and Clinical and Quality Review Specialist, testified as a witness for Respondent.

ISSUE

Did the MHP properly deny Appellant's prior authorization request for the medications Sovaldi and Olysio?

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 male enrolled in the Respondent MHP. (Respondent's Exhibit A, page 5; Testimony of Appellant).
2. On or about ██████████, the MHP received a prior authorization request submitted on behalf of Appellant by a ██████████ and requesting the medications Sovaldi and Olysio for Appellant for treatment of his Hepatitis C. (Respondent's Exhibit A, pages 5-23).
3. With respect to Hepatitis C, the Michigan Department of Community Health's Preferred Drug List identifies a number of preferred agents and non-preferred agents, but neither group of agents includes Sovaldi or Olysio. (Respondent's Exhibit A, page 37).

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4. On [REDACTED], the MHP sent Appellant and his doctor written notice that the prior authorization request was denied. (Respondent's Exhibit A, pages 24-25).
5. Regarding the reason for the denial, the notice of denial stated in part that Appellant's coverage excluded medications not listed in the Plan's preferred drug listing and that neither Sovaldi nor Olysio was listed on that formulary. (Respondent's Exhibit A, page 24).
6. In a letter dated [REDACTED] [REDACTED] indicated his disagreement with the denial. (Respondent's Exhibit A, page 26).
7. [REDACTED] also wrote that Appellant's health would be compromised if he was not given access to the requested medications, and that Sovaldi and Olysio have high successful treatment rates. (Respondent's Exhibit A, page 26).
8. On [REDACTED] [REDACTED], the MHP sent out a written notice confirming the denial. (Respondent's Exhibit A, page 27).
9. Regarding the reason for the denial, the second notice stated:

This request is denied upon investigation because Olysio and Sovaldi are not covered by Medicaid at this time. Formulary alternatives are available for [REDACTED] condition. Please refer to the formulary on our website . . . to see the listing of covered medications.

Respondent's Exhibit A, page 27
10. On [REDACTED], Appellant submitted a local appeal of the denial, in which he indicated that his physician has recommended the two medications in order to eradicate his Hepatitis C and that he only has a small window of time to be treated before more severe complications set in. (Respondent's Exhibit A, pages 28-29).
11. A hearing with respect to that local appeal was held on [REDACTED]. (Respondent's Exhibit A, page 31).
12. On [REDACTED], the MHP denied Appellant's local appeal on the basis that neither Sovaldi nor Olysio was listed on the preferred drug listing or covered by Medicaid. (Respondent's Exhibit A, pages 33-35).
13. On [REDACTED], the Michigan Administrative Hearing System (MAHS) received the request for hearing filed in this matter. (Petitioner's Exhibit 1, pages 1-37).

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)*

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Here, pursuant to its contract with the Department and the above policy, the MHP is allowed to have a drug management program that includes a drug formulary. Moreover, as testified to by the MHP's witness, the MHP reviews prior authorization requests for medications under the Michigan Medicaid medication formulary/ Michigan Pharmaceutical Product List (MPPL).

██████████ also established that, on or about ██████████, the MHP received a prior authorization request submitted on behalf of Appellant by his doctor and requesting Sovaldi and Olysio for Appellant, and that the request was denied in a written notice sent out on ██████████. The reason for the denial was that Sovaldi and Olysio are not covered benefits as they are not included on the applicable medication formulary.

In response, Appellant testified that he is only following her doctor's instructions and that the doctor expressly prescribed Sovaldi and Olysio for Appellant. Appellant also testified that he needs the medications in order to avoid severe complications from Hepatitis C.

Given the above policy and evidence, Appellant has failed to satisfy his burden of proving by a preponderance of the evidence that the MHP erred in denying his prior authorization request for Sovaldi and Olysio. The requested medications are not included on the applicable formulary and are therefore 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 medications Sovaldi and Olysio.

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: ██████████

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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.