

**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. 14-006820 MHP
Case No. ██████████

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 a request for a hearing filed on behalf of the minor Appellant.

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

Following the completion of the hearing, the record was left open until ██████████, so that Appellant's representative could have the opportunity to submit a written response to evidence presented by the MHP during the hearing. No such response was ever received.

ISSUE

Did the MHP properly deny Appellant's request for an enclosed bed?

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 who has been diagnosed with, among other things, disruptive behavior disorder; global developmental delay; attention deficit hyperactivity disorder, NOS; and moderate mental retardation. (Respondent's Exhibit A, page 1; Respondent's Exhibit B, page 2; Respondent's Exhibit E, page 5).
2. On or about ██████████, the MHP received a prior authorization request made on behalf of Appellant and requesting an enclosed bed for him. (Respondent's Exhibit A, page 1).

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3. The prior authorization request also included supporting documentation, including two progress notes regarding services provided to Appellant in [REDACTED]; a Developmental Disability Assessment performed by [REDACTED]; a [REDACTED] letter and note from [REDACTED]; a [REDACTED] psychiatric evaluation performed by [REDACTED]; and a [REDACTED] psychological evaluation performed by [REDACTED]. (Respondent's Exhibit B, pages 1-2; Respondent's Exhibit C, page 1; Respondent's Exhibit D, pages 1-2; Respondent's Exhibit E, pages 1-8; Respondent's Exhibit F, page 1; Respondent's Exhibit G, page 1; and Respondent's Exhibit H, pages 1-4).
4. The progress note regarding a date of service of [REDACTED] describes Appellant's mother as reporting that Appellant is continuing to engage in aggressive behaviors and is still having issues with sleep, both in going to sleep and in staying asleep. (Respondent's Exhibit C, page 1).
5. It also noted that Appellant's mother admitted that she often does not know if Appellant awoke during the night because she is so tired. (Respondent's Exhibit C, page 1).
6. However the progress note regarding a date of service of [REDACTED] indicated that Appellant's mother reported that things are going better with Appellant now that school has started and that:

[Appellant's mother] informed this worker that she has been giving [Appellant] Melatonin and he is now going to sleep around [REDACTED] [sic] and stays asleep until she wakes him up at [REDACTED].

Respondent's Exhibit D, page 1
7. The [REDACTED] Development Disability assessment indicated that Appellant's mother reported both that Appellant will fall asleep and stay asleep with little difficulty and that Appellant does not sleep well at night; will only go to sleep if an adult is in the bed with him; and will throw tantrums if he does not want to go to bed. (Respondent's Exhibit E, page 2).
8. It also stated that Appellant's mother tried Melatonin and did not find it helpful. (Respondent's Exhibit E, page 2).

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9. The [REDACTED], letter from [REDACTED] was written in support of the prior authorization request for the enclosed bed and stated that Appellant does not sleep through the night and the enclosed bed is needed to eliminate nighttime wandering and to prevent Appellant from causing harm to others or himself. (Respondent's Exhibit F, page 1).
10. [REDACTED] also wrote a note for an enclosed bed and stated on that note that it is dangerous for Appellant to sleep alone and the bed would improve safety. (Respondent's Exhibit G, page 1).
11. The [REDACTED] psychiatric evaluation performed by [REDACTED] indicated that Appellant has not been on medications for approximately a year and that, while Appellant continued to have aggressive behaviors, his behavior is better in school. (Respondent's Exhibit H, page 1).
12. [REDACTED] also wrote that Appellant's sleep is disruptive: he receives Melatonin around [REDACTED]; will fall asleep on the couch in the living room with the television on; will then transfer to the parental bed, in a process described as "bad", and will then sleep until [REDACTED]. without further awakening. (Respondent's Exhibit H, page 1).
13. [REDACTED] further wrote that Appellant's primary household, by report, appears to manifest little structure and that the negativistic and blaming stance of his parents has not facilitated more conservative treatments. (Respondent's Exhibit H, page 3).
14. With respect to an enclosed bed, [REDACTED] specifically noted that "the parents plan to obtain a net bed for [Appellant], it seems injudicious and even unfair, given his nighttime anxiety." (Respondent's Exhibit H, page 3).
15. The [REDACTED] psychiatric evaluation by [REDACTED] indicated that Appellant was presenting with aggressive behaviors and development issues, and that he sleeps best with his parents, but that even then he does not sleep long. (Respondent's Exhibit B, page 1).
16. [REDACTED] report also indicated that she discussed treatment options with Appellant's parents, including medications, but nothing was decided and there was no mention of any need for an enclosed bed. (Respondent's Exhibit B, page 2).
17. On [REDACTED], the MHP sent Appellant written notice that the request for an enclosed bed was denied. (Respondent's Exhibit I, page 1).

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18. Regarding the basis for the denial, that notice provided:

The service that was requested for him was a “Beds by George” enclosed bed. According to page 16 of the Certificate of Coverage, services and supplies must be medically necessary. After careful consideration of the medical documentation provided to us it has been determined that the requested enclosed bed is not medically/clinically necessary and therefore, is not a covered benefit of [REDACTED]. We are unable to approve the specialty bed at this time.

Respondent’s Exhibit I, page 1

19. On [REDACTED], the Michigan Administrative Hearing System (MAHS) received the request for hearing filed on behalf of Appellant 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 Appellant and Appellant’s family are enrolled as members in it.

As provided in the Medicaid Provider Manual (MPM), the MHP is responsible for providing covered services pursuant to its contract with the Department and the provisions of the MPM:

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

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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, April 1, 2014 version
Medicaid Health Plans Chapter, page 1
(Emphasis added)*

Pursuant to the above policy, the MHP has developed prior authorization requirements or utilization management and review criteria regarding requests for supplies and, among that criteria, is the requirement that only medically necessary supplies or equipment are covered. See Respondent's Exhibit K, page 1.

As discussed above, the MHP has also determined that the enclosed bed is not medically necessary in this case and is therefore not covered.

Appellant now has the burden of proving by a preponderance of the evidence that the MHP erred in denying the prior authorization request. Moreover, the undersigned Administrative Law Judge's jurisdiction is limited to reviewing the MHP's decision in light of the information it had at the time it made that decision.

Here, given the information submitted to the MHP, Appellant has failed to meet his burden of proof and the MHP's decision must be affirmed. Although ██████████ wrote a letter and note broadly stating that the enclosed bed is medically necessary for safety reasons, the letter and note are not supported by any specific notes or documentation from ██████████ regarding the course of her treatment of Appellant or the need for an enclosed bed.

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Moreover, most of the medical documentation that was submitted along with the prior authorization is inconsistent and fails to support ██████████ opinion. For example, while the progress note regarding services in ██████████ identifies Appellant as having sleep issues, a subsequent progress note regarding services in ██████████ describes Appellant as sleeping through the night after taking Melatonin. Similarly, the ██████████ assessment also provides conflicting information, with the assessment stating both that Appellant is sleeping with little difficulty and that he does not sleep well at night, with Appellant having tried Melatonin and it not being helpful. Additionally, while ██████████ ██████████, evaluation identified aggressive behaviors and issues with sleep, there was no mention of any need for an enclosed bed and ██████████ only discussed other treatment options with Appellant's parents, including potential medications.

The assessment performed by ██████████ in ██████████ also directly contradicts ██████████ opinion and Appellant's request for an enclosed bed. ██████████ did find that Appellant's sleep is disruptive, even with the use of Melatonin, but he further found that the lack of structure in the household is contributing to that disruption and that restricting Appellant to an enclosed bed would be "injudicious" and "unfair" given Appellant's nighttime anxiety.

Given the conflicting evidence regarding Appellant's sleep issues, as well as any safety concerns resulting from any sleep issues, and the conflicting opinions of Appellant's own doctors, Appellant has failed to meet his burden of proving that the MHP erred in finding that the enclosed bed is not medically necessary. The MHP's decision must therefore be affirmed.

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 an enclosed bed.

IT IS THEREFORE ORDERED that:

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



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 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.