

**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:**

██████████

Appellant

\_\_\_\_\_ /

**Docket No.** 14-007030 PAC  
**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 father, appeared and testified on Appellant's behalf, through an interpreter. ██████████, Appeals Review Officer, represented the Department of Community Health. ██████████, consulting physician, testified as a witness for the Department.

**ISSUE**

Did the Department properly deny Appellant's request for genetic testing?

**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 Medicaid beneficiary. (Respondent's Exhibit A, page 12; Testimony of ██████████)
2. On or about ██████████, the Department received a prior authorization request submitted on Appellant's behalf by a ██████████ and requesting Exome Next genetic testing. (Respondent's Exhibit A, pages 11-22; Testimony of ██████████)
3. In support of that request, ██████████ attached a report from the ██████████'s ██████████ that stated:

[Appellant] began to walk around █ months of age however around █ years of age she had to hold onto objects before she could walk. By age █ she was unable to walk without

assistance from a family member. Gradually she became wheelchair bound at age ██████. By this time she also had difficulty using her hands.

\* \* \*

The diagnosis of Dopa-responsive dystonia was considered and she was started on Sinemet in the middle of last year. Since then she has gradually improved such that she can walk without support currently. She reports that in school she ambulates independently although she has a wheelchair nearby in case she needs it. She is also is now able to use her hands better and write which she was not able to do.

\* \* \*

PLAN:

1. Neuropsychological evaluation may be of use.
2. A spinal tap and CSF studies of bioterin level, neoprene level, 6-Hydroxyzine acid level as well as dopamine metabolic level may help define. She had various causes dopa-responsive dystonia. However, given that there is a small possibility that we may be dealing with some type of juvenile Parkinsonism initial test probably should be exome sequencing and chromosome microarray. This is not only an academic exercise as depending on the type of dopa-responsive dystonia supplementation of 5-hydroxytryptophan as well as dihydrobiopterin may be useful . . .

*Respondent's Exhibit A, pages 13-14*

4. On ██████████, the Department sent Appellant and her provider written notice that the prior authorization request for genetic testing was denied. (Respondent's Exhibit A, pages 7-8, 23).

5. Regarding the reason for the denial, that notice stated in part:

The policy this denial is based on is Section 8.3 of the General Information for Providers chapter of the Medicaid Provider Manual:

Based on the information reviewed, your request for Exome Next testing has been denied by Medicaid. It would appear the diagnosis is primarily made by clinical findings and response to Levo Dopa. For reconsideration, please explain how the management of this patient would change with the testing. It appears she has responded significantly to the current treatment.

*Respondent's Exhibit A, page 8*

6. On ██████████, the Michigan Administrative Hearing System (MAHS) received the request for hearing filed on Appellant's behalf in this matter. (Respondent's Exhibit A, page 6).

### **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.

Medicaid covered benefits are addressed for the practitioners and beneficiaries in the Medicaid Provider Manual (MPM) and, as discussed above, the denial in this case was based on Section 8.3 of the General Information for Providers chapter of the MPM. See Respondent's Exhibit A, page 7. That section provides in part:

#### **8.3 NONCOVERED SERVICES**

The items or services listed below are not covered by the Medicaid program:

\* \* \*

- Experimental/investigational drugs, biological agents, procedures, devices or equipment

*MPM, April 1, 2014 version  
General Information for Providers Chapter, page 18*

Specifically, the Department's witness, ██████████, testified that the requested genetic testing in this case is commonly considered experimental because doctors can only understand approximately ████████ of the information that is received from it. She also testified that the testing would be investigational only because Appellant has already been diagnosed; is responding well to treatment; and the treatment would not change with the testing.

Appellant and her representative bear the burden of proving by a preponderance of the evidence that the Department erred in denying the prior authorization request.

Here, Appellant's representative could only testify that the testing was requested because the doctor recommended it and he could not discuss whether it was experimental or investigational. Moreover, while the documentation submitted along with request expressly stated that the testing would not be academic, it also failed to identify any change in the already-successful treatment that could occur if the testing took place or how any new information would be useful.

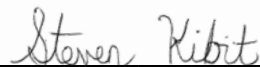
In the notice of denial, the Department offered Appellant and her medical provider another opportunity to explain what effect the testing could have and why it was not merely experimental or investigational. No additional evidence was ever submitted and, based on what it did receive, the Department properly denied the request for genetic testing.

### **DECISION AND ORDER**

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly denied Appellant's request for genetic testing.

### **IT IS THEREFORE ORDERED THAT:**

The Department's decision is **AFFIRMED**.



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Steven Kibit  
Administrative Law Judge  
for Nick Lyon, Director  
Michigan Department of Community Health

Date Signed: ██████████

Date Mailed: ██████████

SJK/db

cc: ██████████

[REDACTED]  
Docket No. 14-007030 PAC  
Decision and Order



**\*\*\* NOTICE \*\*\***

The Michigan Administrative Hearing System for the Department of Community Health 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 for the Department of Community Health 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.