

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. 14-007766 MHP

██████████
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 ██████████. Appellant appeared and testified on her own behalf. ██████████, Appeals Coordinator, represented ██████████, the Respondent Medicaid Health Plan (MHP). ██████████, Medical Director at the MHP, testified as a witness for Respondent.

ISSUE

Did the MHP properly deny Appellant's request for a bunionectomy?

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 who has been diagnosed with Bilateral Tailor's Bunions and who is enrolled in the Respondent MHP. (Respondent's Exhibit A, pages 6-8).
2. On or about ██████████, the MHP received a prior authorization request for a bunionectomy made on Appellant's behalf by a ██████████. (Respondent's Exhibit A, pages 6-11).
3. Medical records attached to the prior authorization request indicated that Appellant had been seen by the doctor on ██████████ for treatment of painful bunions and that foot radiographs were taken at that time. (Respondent's Exhibit A, pages 9-10).
4. The medical records attached to the request also indicated that Appellant was again seen by the doctor on ██████████; that Appellant's bunions had worsened since the previous visit; and that Appellant and her doctor

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discussed a number of treatment options, including conservative treatments and surgery. (Respondent's Exhibit A, page 11).

5. On [REDACTED], the MHP sent Appellant written notice that the request for a bunionectomy was denied. (Respondent's Exhibit A, pages 12-15).
6. Specifically, the notice stated that the request was being denied based on InterQual Procedures, Osteotomy, Transpositional, Distal/Proximal Fifth MT Criteria and that:

InterQual Procedures, Osteotomy, Transpositional, Distal/Proximal Fifth MT criteria guideline requires documentation including the intermetatarsal angle (measurement of bunion) and/or x-rays. The information sent shows that the member has bunion deformity however the intermetatarsal angle measurements were not provided to meet the criteria guidelines.

Respondent's Exhibit A, page 12

7. On [REDACTED], the Michigan Administrative Hearing System (MAHS) received the Request for Hearing filed by Appellant in this matter. (Petitioner's Exhibit 1, page 1).

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

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

Here, the MHP reviews prior approval requests under the InterQual Procedures Criteria and, with respect to Tailor's bunions and a bunionectomies, those guidelines require (1) pain and skin irritation at the fifth MTP joint that interferes with activities of daily living; (2) findings of skin irritation/callus/ulcer and a prominent lateral condyle at fifth MTP joint; (3) an x-ray showing prominent lateral condyle at fifth MTP joint and 4-5 intermetatarsal angle greater than or equal to 8 degrees; (4) and continued pain/skin irritation after conservation treatment for at least 12 week. (Respondent's Exhibit A, pages 3-5).

Here, pursuant to those guidelines, the MHP denied Appellant's request for a bunionectomy. As testified to by ██████████, the evidence and documentation submitted in this case generally provide that Appellant has painful bunions, but there were no x-rays or measurements of the intermetatarsal angle submitted.

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

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to reviewing the MHP's decisions 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.

Appellant acknowledges that, while x-rays were performed, there were no x-rays or measurements of the intermetatarsal angle submitted along with the prior authorization request. Rather, Appellant instead argues that her request for a medically necessary procedure should not be denied simply because her doctor failed to provide the appropriate documentation. However, the MHP must rely on what was submitted and, in this case, the submitted documentation failed to demonstrate that Appellant met all of the requirements for a bunionectomy.

To the extent Appellant obtains additional or updated information to regarding her medical condition or the treatment of that condition, she is free to have her doctor resubmit the request for a bunionectomy, 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 bunionectomy.

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: [REDACTED]

Date Mailed: [REDACTED]

SK/db

cc: [REDACTED]

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***** 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.