

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. 14-008241 MHP
Case No. ██████████

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37, and upon Appellant's request for a hearing.

After due notice, a hearing was held on ██████████. ██████████, Appellant's daughter, appeared on Appellant's behalf. Appellant appeared and testified.

██████████, Manager of Medicaid Operations, appeared on behalf of the subcontracting Medicaid Health Plan, ██████████ (██████████ or MPH).

ISSUE

Did ██████████ properly deny Appellant's request for continued physical and occupational therapy?

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 female Medicaid beneficiary.
2. In ██████, Appellant suffered a Cerebral Vascular Accident (CVA-Stroke). Appellant's hospitalization from ██████████ was followed up with outpatient rehabilitative services from ██████████. (Exhibit A.1)
3. On ██████, ██████████ received a request from ██████████-Neuro Rehabilitation Services requesting additional Physical and Occupational Therapy visits. (Exhibit A.5)
4. On ██████ ██████████ issued a denial of the Appellant's prior authorization request. The notice stated that a ██████████ Physician reviewer had reviewed the prior authorization request and the request was

denied because physical and occupational therapy services have been provided for 90 days and additional visits would be considered maintenance. (Exhibit A.13-14)

5. Appellant would benefit from continued occupational and physical therapy.
6. On ██████████ the Michigan Administrative Hearing System received Appellant's request for a hearing.

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 in one of those Medicaid Health Plans and, regarding such plans, the Michigan Medicaid Provider Manual states:

SECTION 1 – GENERAL INFORMATION

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. [*Medicaid Provider Manual, Medicaid Health Plan (MHPs)*, October 1, 2013, p. 1 (emphasis added)].

The ██████████ Medicaid Program Certificate of Coverage – Short Term Rehabilitative Therapy, provides:

Physical therapy . . . [is] covered for treatment of medical diagnosis if due to:

- a. An injury
- b. An illness, or
- c. A congenital defect for which you have received corrective surgery. (Exhibit A.16)

In addition, Section 6, Exclusions from Coverage, states:

Long-Term rehabilitation services that are not restorative in nature are not a covered benefit. Long-term therapy, specifically therapy beyond 90-days following the initiation of therapy, is not covered if there is not meaningful improvement in your ability to perform functional day-to-day activities that are significant in your life roles. Therapy for the purpose of maintaining physical condition or maintenance therapy for a chronic condition including, but not limited to, cerebral palsy, and developmental delays, is not covered. (Exhibits A.18)

The Certificate of Coverage section cited above corresponds to the requirements found in the Michigan Medicaid Provider Manual, Outpatient Therapy. Specifically, this Chapter states that physical therapy is not a covered service for beneficiaries if it is a continuation of physical therapy that is maintenance in nature. Medicaid Provider Manual, Version July 1, 2014; Outpatient Therapy, Page 14.

Appellant bears the burden of proving by a preponderance of the evidence that ██████████ erred in denying his request for physical therapy based on the information submitted. Here, Appellant has failed to meet that burden of proof.

██████████'s witness testified that Appellant's request for physical therapy was properly denied based on the above-cited policies. ██████████'s witness indicated that Appellant is not eligible for physical and occupational therapy as they have been provided for 90 days, and, additional visits would be considered maintenance. (Exhibit A.1) Moreover, the Certificate of Coverage specifically excludes long-term physical therapy that is not restorative in nature. More specifically, this Certificate states: ...”Therapy for the purpose of maintaining physical condition or maintenance therapy for

a chronic condition, ...is not covered.” ██████████’s witness indicated that Appellant is not eligible for long-term physical therapy because it has been long term, and is now considered chronic.

Appellant’s representative argued that her mother will benefit from ongoing services. The Respondent agrees; however, ‘benefiting’ is not, unfortunately, a criteria established for eligibility of ongoing services.

The facts in this case indicate that Appellant has received services for ██████ years. Appellant’s services are not long short term in nature; they are for a chronic condition.

The undersigned administrative law judge are bound by the policies set forth in the Medicaid Provider Manual. The preponderance of the evidence in this case shows that while the therapy requested by the Appellant might certainly offer her some benefit, therapy is simply not authorized through Medicaid for ongoing, chronic conditions. Appellant is not eligible for long-term physical therapy because she has not shown continuous improvement in physical therapy and because therapy for the purpose of maintaining physical condition of maintenance for a chronic condition, such as Appellant’s, is not a covered service. Accordingly, the Appellant has failed to demonstrate that ██████████ erred by denying the physical therapy.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that Priority Health properly denied Appellant’s request for physical and occupational therapy.

IT IS THEREFORE ORDERED that:

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

/s/ _____

Janice Spodarek
Administrative Law Judge
for Nick Lyon, Director
Michigan Department of Community Health

cc:

██████████
██████████
██████████

JS/████

Date Signed: ██████████

Docket No. 14-008241 MHP
Decision and Order

Date Mailed: [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 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.