

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF COMMUNITY HEALTH**

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IN THE MATTER OF:

██████████

Appellant

_____ /

Docket No. 14-008324 MHP
Case No.

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge (ALJ) pursuant to MCL 400.9 and 42 CFR 431.200 *et seq.*, following the Appellant's request for a hearing.

After due notice, a hearing was held ██████████. The Appellant appeared on her own behalf and offered testimony. ██████████, Senior Staff Attorney, represented ██████████, the Medicaid Health Plan (hereinafter MHP). Dr. ██████████, Medical Director, offered testimony on behalf of the MHP.

ISSUE

Did the MHP properly deny Appellant's request for a lumber spine fusion?

FINDINGS OF FACT

Based upon the competent, material, and substantial evidence presented, I find, as material fact:

1. The Appellant is a ██████-year-old female Medicaid beneficiary suffering from spondylolisthesis who is currently enrolled in the MHP. (Exhibit A, p. 1)
2. On ██████████, Dr. ██████████, submitted to the MHP a prior authorization request for a lumbar spine fusion. (Exhibit A, pp. 4, 5; Testimony)
3. The ██████ ██████ ██████, prior authorization request did not include documentation to show the Appellant had a neurological deficit, stopped smoking, or include recent physical therapy notes. (Exhibit A, pp. 5-11; Testimony)
4. On ██████████, Rene Furgiuele from Dr. ██████████'s office requested the MHP to void the May 7, 2014 prior authorization request for a lumbar spine fusion. (Exhibit A, p. 17; Testimony)

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5. On ██████████, MAHS received a Request for Hearing from the Appellant. (Exhibit A, pp. 1, 2).
6. Appellant last underwent pain management in ██████████. (Testimony)

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.

On May 30, 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 Medicaid Health Plans.

The covered services that the Contractor has available for enrollees must include, at a minimum, the covered services listed below (List omitted by Administrative Law Judge). *The Contractor may limit services to those which are medically necessary and appropriate, and which conform to professionally accepted standards of care. Contractors must operate consistent with all applicable Medicaid provider manuals and publications for coverage(s) and limitations. (Emphasis added by ALJ)* If new services are added to the Michigan Medicaid Program, or if services are expanded, eliminated, or otherwise changed, the Contractor must implement the changes consistent with State direction in accordance with the provisions of Contract Section 1-Z.

*Article II-G, Scope of Comprehensive Benefit Package.
MDCH contract (Contract) with the Medicaid Health Plans,
September 30, 2004.*

The major components of the Contractor's utilization management plan must encompass, at a minimum, the following:

- Written policies with review decision criteria and procedures that conform to managed health care industry standards and processes.

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- A formal utilization review committee directed by the Contractor's medical director to oversee the utilization review process.
- Sufficient resources to regularly review the effectiveness of the utilization review process and to make changes to the process as needed.
- An annual review and reporting of utilization review activities and outcomes/interventions from the review.

The Contractor must establish and use a written prior approval policy and procedure for utilization management purposes. The Contractor may not use such policies and procedures to avoid providing medically necessary services within the coverage(s) established under the Contract. The policy must ensure that the review criteria for authorization decisions are applied consistently and require that the reviewer consult with the requesting provider when appropriate. The policy must also require that utilization management decisions be made by a health care professional who has appropriate clinical expertise regarding the service under review.

*Article II-P, Utilization Management, Contract,
September 30, 2004.*

As stated in the Department-MHP contract language above, a MHP, "must operate consistent with all applicable Medicaid Provider Manuals and publications for coverages and limitations." The pertinent section of the Michigan Medicaid Provider Manual (MPM) states "[m]edicaid covers medically necessary surgical procedures."

*MPM, October 1, 2014
Practitioner, page 60*

The MHP contract provisions allow prior approval procedures for utilization management purposes. The MHP reviewed the prior approval request under the MHP's Medical Policy for Lumbar Fusion.¹

Appellant bears the burden of proving by a preponderance of the evidence that the MHP erred in denying her request for a lumbar spine fusion. The Appellant however was unable to come up with any evidence to indicate that her requesting physician did not revoke his prior authorization request.

¹ Exhibit A, pp. 12-15

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Because the prior authorization request was withdrawn, there never was a negative action notice issued denying the prior authorization request and thus I lack the necessary authority to issue a decision on this issue.

DECISION AND ORDER

The Administrative Law Judge, based upon the above, finds that Appellant's request for hearing must be **DISMISSED** due to lack of jurisdiction.

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Corey A. Arendt
Administrative Law Judge
for Nick Lyons, Director
Michigan Department of Community Health

cc:

[REDACTED]

Date Signed:

[REDACTED]

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 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.