

**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. 14-009557 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 his own behalf and offered testimony. ██████████, Manager of Medicaid Operations, represented ██████████, the Medicaid Health Plan (hereinafter MHP).

**ISSUE**

Did the MHP properly deny Appellant's request for Lidocaine patches?

**FINDINGS OF FACT**

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

1. The Appellant is a ██████-year-old male Medicaid beneficiary suffering from a fractured dorsal who is currently enrolled in the MHP. (Exhibit A, pp. 2, 15; Testimony)
2. Prior to ██████████, ██████████ approved lidocaine patches to the Appellant for the treatment of neuropathic pain associated with a Lyme disease condition. (Testimony)
3. On ██████████, Dr. ██████████ M.D.'s office called MHP and verbally requested prior authorization for lidocaine patches for pain relief. (Exhibit A, pp. 2, 7, 8; Testimony)
4. On ██████████, MHP sent notice to Dr. ██████ and the Appellant indicating the ██████████ request was denied due to the Appellant failing to meet MHP prior approval criteria. (Exhibit A, pp. 10, 11; Testimony)

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5. On ██████████, Dr. ██████████, M.D., submitted to the MHP a prior authorization form requesting lidocaine patches to treat a fractured dorsal. The form did not indicate the request was for post-herpetic neuralgia or chronic neuropathic pain. The request did not include any corresponding medical documentation to show the requested off-label use was a standard of practice or supported by clinical evidence. (Exhibit A, pp. 2, 15; Testimony)
6. On ██████████, MHP sent notice to Dr. ██████████ and the Appellant indicating the ██████████ request was denied due to the Appellant failing to meet MHP prior approval criteria. (Exhibit A, pp. 2, 18, 19; Testimony)
7. On ██████████, MAHS received a Request for Hearing from the Appellant. (Exhibit A, p. 25).

**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.
- 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*

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The MHP contract provisions allow prior approval procedures for utilization management purposes. The MHP prior approval guidelines allow for approval of lidocaine patches when the Appellant is either diagnosed with postherpetic neuralgia or diagnosed with chronic neuropathic pain. In this case, the Appellant did not meet either of those criteria based upon the prior approval requests alone. The first prior approval request indicated the request was for the treatment of pain and the second prior approval request indicated the request was for a fractured dorsal. As previously indicated, neither of these met the criteria for approval. The second phase of the approval process was to determine whether an "off-label" use could be approved. In this case, the Appellant's prior approval requests did not indicate that use of the requested drug had become standard practice or show that utilization was supported by clinical evidence.<sup>1</sup>

The Appellant disagreed with the denial. The Appellant provided testimony reflecting a possible exception meeting the requirements for approval. However, that information was not provided to the MHP at the time of the denial.

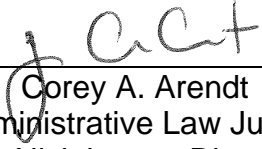
The MHP provided sufficient evidence that its formulary and medication prior approval process is consistent with Medicaid policy and allowable under the DCH-MHP contract provisions. The MHP demonstrated that at the time the denial decision was made, the Appellant did not meet criteria for approval of lidocaine because the available information did not establish postherpetic neuralgia or chronic neuropathic pain.

Based upon the testimony of the Appellant, the Appellant may want to submit a new prior authorization request that includes the information that he provided at the hearing.

**DECISION AND ORDER**

The ALJ, based on the above findings of fact and conclusions of law, decides that the MHP properly denied the Appellant's request for the medication lidocaine based on the available information.

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

CAA

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<sup>1</sup> As indicated in Exhibit A, pp. 20, 21.

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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.