

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:

████████████████████

Appellant

Docket No. 14-010768 MHP

██████████

██████████

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 Appellant's request for hearing.

After due notice, a hearing was held on ██████████. Appellant, through an interpreter, appeared and testified on her own behalf. ██████████, Appeals Coordinator, appeared and testified on behalf of ██████████, the Respondent Medicaid Health Plan (MHP).

ISSUE

Did the MHP properly deny Appellant's prior authorization request for the medication Sovaldi?

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 enrolled in the Respondent MHP. (Respondent's Exhibit B, page 1; Testimony of Appellant).
2. On or about ██████████, the MHP received a prior authorization request submitted on behalf of Appellant by a ██████████ and requesting Sovaldi 400 mg for Appellant. (Respondent's Exhibit B, page 1; Testimony of ██████████)
3. In reviewing that request, MHP staff found that the medication Sovaldi is not on the Michigan Medicaid Medication Formulary. (Testimony of ██████████)
4. On ██████████ the MHP sent Appellant written notice that the prior authorization request was denied. (Respondent's Exhibit A, pages 1-2).

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

The medication that was requested for you was Sovaldi. According to the Medical Service Administration (MSA), a division of the Michigan Department of Community Health (MDCH), this medication is not a covered benefit under Michigan Medicaid. As a result, this request has not been approved. Please contact your doctor to discuss alternatives.

Respondent's Exhibit A, page 1

6. On [REDACTED], the Michigan Administrative Hearing System (MAHS) received the request for hearing filed 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 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.)

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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, pursuant to its contract with the Department and the above policy, the MHP is allowed to have a drug management program that includes a drug formulary. The MHP in this case reviews prior authorization requests under the Michigan Medicaid medication formulary. (Respondent's Exhibit A, pages 1-2; Testimony of [REDACTED])

The Respondent's witness [REDACTED] also established that, on or about [REDACTED], the MHP received a prior authorization request submitted on behalf of Appellant by a [REDACTED] and requesting Sovaldi 400 mg for Appellant, and that the request was denied in a written notice sent out that same day. The reason for the denial was that Sovaldi is not a covered benefit as it is not included on the Michigan Medicaid medication formulary.

In response, Appellant testified that she is only following her doctor's instructions and that he requested the medication on her behalf and advised to file an appeal. She also testified that she has not discussed any other treatment options with her doctor.

Appellant has failed to satisfy her burden of proving by a preponderance of the evidence that the MHP improperly denied her PA request for Sovaldi. The requested medication is not included on the Michigan Medicaid medication formulary and, consequently, it cannot be approved by the MHP.¹

¹ During the hearing, Appellant testified that she has unpaid medical bills relating to a car accident that she would like the MHP to address. However, she also conceded that no bills have ever been submitted to the MHP. This Administrative Law Judge only has jurisdiction to hear matters related to a denial, reduction, termination, or suspension of a Medicaid covered service. See the Code of Federal Regulations: 42 CFR 431.200 *et seq.* and 42 CFR 438.400 *et seq.* Given that there were no bills submitted to the MHP, it has not taken any negative action. Accordingly, this Administrative Law Judge finds that he is without jurisdiction to hear any claims about unpaid medical bills.

[REDACTED]
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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 prior authorization request for the medication Sovaldi.

IT IS THEREFORE ORDERED that:

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

Steven Kibit

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

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

SK/db

cc: [REDACTED]

***** NOTICE *****

The Michigan Administrative Hearing System 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.