

**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:

██████████

**Docket No.: 14-012802 MHP
Case No.: ██████████**

Appellant

_____ /

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 Appellant's request for a hearing.

After due notice, a hearing was held on ██████████. Appellant appeared on her own behalf. ██████████, Supervisor of Appeals, represented ██████████, the Medicaid Health Plan (hereinafter MHP). ██████████, Medical Director, appeared as a witness for the MHP.

ISSUE

Did the MHP properly deny the Appellant's request for therapeutic epidural steroid injections for chronic back pain?

FINDINGS OF FACT

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

1. Appellant is a ██████-year-old female Medicaid beneficiary who is currently enrolled in the Respondent MHP. (Exhibit A, p 2; Testimony)
2. On ██████████, the Appellant received an epidural steroid injection. (Exhibit A, p 2; Testimony)
3. On ██████████, the MHP received a request for therapeutic epidural steroid injections from Appellant's physician. Appellant's physician noted that the Appellant had been receiving periodic epidural steroid injections with reasonably good relief and that they hope they continue to see reasonable results. (Exhibit A, pp 2, 3)

4. On ██████████, the MHP sent Appellant a denial notice stating that the request for epidural steroid injections were not authorized under the ██████████'s guidelines because there was no documentation showing an 80% relief of pain or symptoms. (Exhibit A, p 24; Testimony)
5. On ██████████, the Michigan Administrative Hearings System (MAHS) received the Appellant's request for hearing. (Exhibit A, p 1)
6. Prior to ██████████, the Appellant had received numerous epidural steroid injections. (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 coverages and limitations. 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:

- (a) Written policies with review decision criteria and procedures that conform to managed health care industry standards and processes.
- (b) A formal utilization review committee directed by the Contractor's medical director to oversee the utilization review process.
- (c) Sufficient resources to regularly review the effectiveness of the utilization review process and to make changes to the process as needed.
- (d) 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 coverages 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 sections of the Michigan Medicaid Provider Manual (MPM) states:

4.13.A. Injectable Drugs and Biologicals

Medicaid covers injectable drugs and biologicals administered by a physician in the office or clinic setting and the beneficiary's home. The drug must be Food and Drug Administration (FDA) approved and reasonable and necessary according to accepted standards of medical practice for the diagnosis or treatment of the illness or injury of the beneficiary.

An injectable drug is covered if the drug is:

- Specific and effective treatment for the condition for which it is being given.
- Given for the treatment of a particular documented diagnosis, illness, or condition (e.g., vitamin injections which are not specific replacement therapy for a documented deficiency or disease and are given simply for the general good and welfare of the patient).
- Administered by the recommended or accepted administration method for the condition being treated.
- Administered according to the recommended dosing schedule and amount for the condition being treated.

Medicaid Provider Manual
Practitioner Chapter
October 1, 2014, p 33

Under the DCH-MHP contract provisions, an MHP may devise their own criterion for coverage of medically necessary services, as long as those criteria do not effectively avoid providing medically necessary services.

The MHP utilized its Policy and Procedure Manual when they reviewed the Appellant's prior authorization request. The MHP manual requires that during the therapeutic stage, "[d]ocumentation of a successful diagnostic phase must be provided to receive therapeutic injections (e.g., 80% symptom or pain relief for a minimum of 8 weeks)"¹.

These criteria are consistent with the Medicaid standards of coverage and do not effectively avoid providing medically necessary services and are allowable under the DCH-MHP contract provisions.

The MHP determined that the documentation submitted for the prior authorization request did not meet the above criteria. Specifically, the documentation submitted did not show an 80% symptom or pain relief for a minimum of 8 weeks.

Appellant testified that she didn't understand the process and indicated she was not responsible for what the doctor's included with their prior authorization request.

The documentation provided with the prior authorization request does not establish that Appellant has met the criteria for prior approval for therapeutic epidural steroid injections. Medical necessity of the requested procedure was not established based on the information available to the MHP when it reviewed Appellant's prior authorization request. Accordingly, the MHP's denial was proper based on the information available

¹ Exhibit A, p 5.

[REDACTED]
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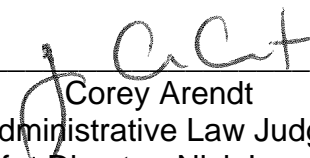
at that time. Appellant can re-submit for prior approval at any time with additional supporting documentation.

DECISION AND ORDER

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

IT IS THEREFORE ORDERED that:

The MHP's decision is **AFFIRMED**.



Corey Arendt
Administrative Law Judge
for Director, Nick Lyon
Michigan Department of Community Health

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

CA [REDACTED]

cc: [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.