

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. 2014-14774QHP

Case No. ██████████

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, MCL 400.37 and 42 CFR 431.200 et seq., upon Appellant's request for a hearing

After due notice, a hearing was held on ██████████. Appellant appeared and testified.

██████████, Director of Customer and Provider Services represented ██████████ Health Plan of Michigan, the Medicaid Health Plan (hereinafter MHP). ██████████, Appeals Coordinator appeared as a witness.

ISSUE

Did McLaren properly deny Appellant's request to cover genetic testing?

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 beneficiary of the Medicaid program, administered by the State of Michigan.
2. On ██████████, the MHP received a prior authorization (PA) request from Appellant's OB-GYN for the sensigene fetal RHD genotyping lab test. (Exhibit A)
3. Appellant had the test done on ██████████, the same day as the MHP received the PA request.
4. On ██████████ the MHP denied the PA request on the grounds that Hayes, Inc. gives the test a D2 rating meaning that "...there is no proven benefit-insufficient evidence..." Denial was also based on the fact that 'no medical necessity' shown as required by the MHP's Certificate of Coverage. (Exhibit A, Attachment C testimony).

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5. On ██████████, Appellant filed a request of hearing where Appellant stated that she was given false information from her physician in regard to this test, and, that she would not have had the test had she been properly informed.
6. Sequenom Laboratory is billing Appellant for \$ ██████████. (Exhibit A)

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

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subsections describe covered services, excluded services, and prohibited services as set forth in the Contract. [*Medicaid Provider Manual, Medicaid Health Plan (MHPs)*, April 1, 2013, p. 1 (emphasis added)].

The specific portion of the Contract the MHP has with the Department of Community Health applicable herein is the section titled "Exclusions from Coverage." Paragraph 26 states that a service determined not medically or clinically necessary is not a member service. (Exhibit A, Attachment C)

In conjunction with determining medical necessity for genetic testing, the MHP uses the Hayes GTE rating system. This system rates different genetic tests as to their safety and efficacy, and indications as compared to other technologies. (Exhibit A, Attachment C)

The Hayes GTE rating system rates the test Appellant's physician applied for as "D2"-no proven benefit-insufficient evidence. (Exhibit A)

In this case, the MHP Contract has been approved in conjunction with the Department. Evidence shows that the PA procedures were clearly notified to participants (Exhibit A, Attachment D). Evidence further shows that Appellant went ahead with the test prior to the MHP processing the PA request.

Appellant complains that her physician misled her. Moreover, Appellant complains that she had to have the alternative injection at her doctor's office despite their recommendation to have the genetic testing. (The physician who advised her to have the test is no longer with that group.)

This is unfortunate. However, this administrative forum cannot mediate or give Appellant any remedy for a complaint she has with her doctor. The MHP's actions were consistent under its policy, contract and procedures, and as such, are affirmed.

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DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that [REDACTED] properly denied Appellant's request to cover the genetic testing done on [REDACTED] by the [REDACTED] Genetics Lab.

IT IS THEREFORE ORDERED that:

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

Janice Spodarek
Administrative Law Judge
for James K. Haveman, Director
Michigan Department of Community Health

[REDACTED]
cc: [REDACTED]

Date Signed: February 21, 2014

Date Mailed: February 26, 2014

***** 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.