

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. 2014-19312 QHP
Case No. ██████████

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37, and upon a request for a hearing filed on behalf of the minor Appellant.

After due notice, a hearing was held on ██████████. ██████████, Appellant's mother, appeared on Appellant's behalf. ██████████, Manager Medicaid Products, appeared on behalf of the Medicaid Health Plan, ██████████ (██████████ or MPH).

Following the hearing, the record was left open until ██████████ so that Appellant's mother could receive the Hearing Summary and respond, in writing, if she so desired.

ISSUE

Did ██████████ properly deny Appellant's request for physical therapy?

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 Medicaid beneficiary, born January 30, 2009. Appellant is diagnosed with cerebral palsy and seizure disorder and is tube fed. (Exhibit A, Testimony).
2. On ██████████ ██████████ received a request from ██████████ ██████████ Center made on behalf of Appellant for physical therapy. (Exhibit A, Testimony).
3. On ██████████, ██████████ issued an initial denial of the Appellant's prior authorization request for physical therapy. The notice

stated that a ██████████ Physician reviewer had reviewed the prior authorization request and the request was denied because physical therapy was not a covered service for someone with Appellant's diagnoses. (Exhibit B)

4. On ██████████, Appellant's mother filed an appeal with ██████████ asking for an internal review. (Exhibit D; Testimony).
5. On ██████████, ██████████ sent Appellant written notice following the Level 1 Review indicating that the request for physical therapy was being denied. In addition to the reasons stated in the initial denial, the request was denied by the review team because Appellant failed to show any meaningful improvement with past physical therapy, which would be required for long term therapy (Exhibit E; Testimony)
6. On ██████████, the Michigan Administrative Hearing System (MAHS) received a request for hearing filed on behalf of Appellant. (Exhibit 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 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 subsections describe covered services, excluded services, and prohibited services as set forth in the Contract. [*Medicaid Provider Manual, Medicaid Health Plan (MHPs)*, October 1, 2013, p. 1 (emphasis added)].

The Priority Health Medicaid Program Certificate of Coverage – Short Term Rehabilitative Therapy, provides:

Physical therapy . . . [is] covered for treatment of medical diagnosis if due to:

- a. An injury
- b. An illness, or
- c. A congenital defect for which you have received corrective surgery.

In addition, Section 6, Exclusions from Coverage, states:

Long-Term rehabilitation services that are not restorative in nature are not a covered benefit. Long-term therapy, specifically therapy beyond 90-days following the initiation of therapy, is not covered if there is not meaningful improvement in your ability to perform functional day-to-day activities that are significant in your life roles. Therapy for the purpose of maintaining physical condition or maintenance therapy for a chronic condition including, but not limited to, cerebral palsy, and developmental delays, is not covered. (Exhibits C, E)

Appellant bears the burden of proving by a preponderance of the evidence that ██████████ erred in denying his request for physical therapy based on the information submitted. Here, Appellant has failed to meet that burden of proof.

██████████'s witness testified that Appellant's request for physical therapy was properly denied based on the above-cited policies. ██████████'s witness indicated that Appellant is not eligible for short-term physical therapy because the therapy is not

required treatment for an illness, an injury, or a congenital defect for which Appellant has received corrective surgery. Furthermore, ██████████'s witness indicated that Appellant is not eligible for long-term physical therapy because he has not shown continuous improvement in physical therapy and because therapy for the purpose of maintaining physical condition of maintenance for a chronic condition, such as Appellant's diagnosis of cerebral palsy, is not a covered service.

Appellant's mother testified that, while she agrees that Appellant's condition is chronic, the symptoms of cerebral palsy are greatly improved through continued physical therapy. Appellant's mother indicated that continued physical therapy is required to improve Appellant's chances of standing, sitting and walking. Without physical therapy, Appellant's mother indicated that Appellant will be bound to a wheel chair for life.

Appellant's mother also testified that she believes chronic conditions, such as cerebral palsy, are now covered under the Affordable Care Act. Appellant's mother also pointed out that she believes Appellant has shown steady improvement with the physical therapy he has received and that since the physical therapy has been stopped, Appellant's condition has worsened.

In response, ██████████'s witness indicated that there may be other Medicaid services available through other Medicaid providers, such as the local Community Mental Health (CMH) Office. Appellant's mother confirmed that Appellant receives services through CMH, but that physical therapy is not covered there either.

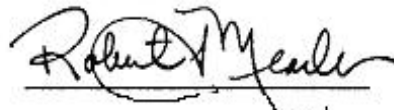
The MPH, and likewise the undersigned administrative law judge are bound by the policies set forth in the Medicaid Provider Manual. The preponderance of the evidence in this case shows that while the physical therapy requested by the Appellant might certainly offer him some benefit, physical therapy is simply not authorized through Medicaid for persons with Appellant's diagnoses. Appellant is not eligible for short-term physical therapy because the therapy is not required treatment for an illness, an injury, or a congenital defect for which Appellant has received corrective surgery. Appellant is not eligible for long-term physical therapy because he has not shown continuous improvement in physical therapy and because therapy for the purpose of maintaining physical condition of maintenance for a chronic condition, such as Appellant's diagnosis of cerebral palsy, is not a covered service. Accordingly, the Appellant has failed to demonstrate that ██████████ erred by denying the physical therapy.

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 for physical therapy.

IT IS THEREFORE ORDERED that:

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



Robert J. Meade
Administrative Law Judge
for James K. Haveman, Director
Michigan Department of Community Health

cc:

[REDACTED]

[REDACTED]

Date Signed: February 14, 2014

Date Mailed: February 14, 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.