

**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. 2014-21224 QHP

██████████

██████████

██████████

Appellant.

_____ /

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 the Appellant's request for a hearing.

After due notice, a hearing was held on ██████████. Appellant appeared and testified on her own behalf. ██████████, paralegal, represented ██████████, the Respondent Medicaid Health Plan ("MHP"). Dr. ██████████, Medical Director, testified as a witness for Respondent.

ISSUE

Did the MHP properly deny Appellant's prior authorization request for bariatric surgery?

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 enrolled in the Respondent MHP. (Respondent's Exhibit A, page 7).
2. On or about ██████████, the MHP received a prior authorization request submitted on Appellant's behalf for a Sleeve Gastrectomy Surgery. (Respondent's Exhibit A, pages 5-48).
3. As indicated in the supporting documents attached to that request, Appellant had a Body Mass Index (BMI) of ██████ and had been diagnosed with morbid obesity, hypertension, joint pain, depression, anxiety, high cholesterol, hyperlipidemia, disc herniation, a bulging disc, and an overactive bladder. (Respondent's Exhibit A, pages 7, 11).
4. The supporting documentation also indicated that Appellant had been cleared physically and psychologically for the surgery. (Respondent's Exhibit A, pages 9, 12-16).

**Docket No. 2014-21224 QHP
Decision and Order**

5. On [REDACTED], the MHP sent Appellant written notice that the prior authorization request was being denied. (Respondent's Exhibit A, page 3).
6. Specifically, the denial stated:

Based on review of the information provided the following determination has been made:

You are [REDACTED] years old. You are overweight. You asked for surgery to help you lose weight (Bariatric surgery). The request is denied at this time. The Health Plan rules have not been met. Your BMI is below the cutoff of [REDACTED]. We did not see that you had other medical problems that were not controlled or could not be controlled with better medical care. Weight loss surgery also needs to be related to medical problems. It is not done just because someone is overweight.

Respondent's Exhibit A, page 3

7. On [REDACTED], the Michigan Administrative Hearing System (MAHS) received the Request for Hearing filed by Appellant 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)

Docket No. 2014-21224 QHP
Decision and Order

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.

*MPM, October 1, 2013 version
Medicaid Health Plan Chapter, page 1
(Underline added by ALJ)*

As stated above, a MHP “must operate consistent with all applicable Medicaid Provider Manuals and publications for coverages and limitations.” Here, the pertinent section of the MPM states:

4.21 WEIGHT REDUCTION [RE-NUMBERED 4/1/13]

Medicaid covers treatment of obesity when done for the purpose of controlling life-endangering complications, such as hypertension and diabetes. If conservative measures to control weight and manage the complications have failed, other weight reduction efforts may be approved. The physician must obtain PA for this service. Medicaid does not cover treatment specifically for obesity or weight reduction and maintenance alone.

The request for PA must include the medical history, past and current treatment and results, complications

Docket No. 2014-21224 QHP
Decision and Order

encountered, all weight control methods that have been tried and have failed, and expected benefits or prognosis for the method being requested. If surgical intervention is desired, a psychiatric evaluation of the beneficiary's willingness/ability to alter his lifestyle following surgical intervention must be included.

If the request is approved, the physician receives an authorization letter for the service. A copy of the letter must be supplied to any other provider, such as a hospital, that is involved in providing care to the beneficiary.

*MPM, October 1, 2013 version
Practitioner Chapter, page 41*

Moreover, pursuant to its authority to limit services to those that are medically necessary based on its own prior authorization requirements, utilization management or review criteria, the MHP also reviews prior approval requests for bariatric surgeries under the Michigan Association of Health Plan's (MAHP) Bariatric Surgery Guidelines (Respondent's Exhibit A, pages 50-51). These guidelines contain certain criteria for authorizing surgical intervention for obesity and are consistent with the Medicaid standard of coverage to only prior authorize medically necessary treatment of obesity when done for the purpose of controlling life-endangering complications, do not effectively avoid providing medically necessary services, and are allowable under the DCH-MHP contract provisions.

Appellant bears the burden of proving by a preponderance of the evidence that the MHO erred in denying her request for bariatric surgery.

Here, based on the evidence presented in this case, the MHP properly denied Appellant's request for bariatric surgery based on MPM and the MAHP Guidelines.

The evidence and documentation submitted in this case provide that, while Appellant is overweight and has co-morbidities, her BMI is below [REDACTED] and she has no uncontrolled, life-endangering complications arising from her obesity.

As such, the denial was proper. Medicaid does not cover treatment specifically for obesity or weight reduction and maintenance alone and that is all Appellant's documentation identified in this case. Moreover, her BMI was below the cutoff found in criteria.

The MHP's bariatric surgery prior approval process is consistent with Medicaid policy and allowable under the DCH-MHP contract provisions. Here, the MHP demonstrated that the Appellant did not meet criteria for approval of bariatric surgery based on the information available at the time of this request and its decision must be affirmed.

[REDACTED]
Docket No. 2014-21224 QHP
Decision and Order

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 request for bariatric surgery.

IT IS THEREFORE ORDERED that:

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

Steven Kibit

Steven Kibit
Administrative Law Judge
for James K. Haveman, Director
Michigan Department of Community Health

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

SK/db

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 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.