

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF COMMUNITY HEALTH**

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IN THE MATTER OF:

██████████,

Appellant

Docket No. 2014-27381 PA
Case No. ██████████

DECISION AND ORDER

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

After due notice, a hearing was held on ██████████. ██████████, Appellant's mother, appeared and testified on Appellant's behalf. ██████████, Appeals Review Officer, represented the Respondent, Department of Community Health (DCH or Department). Dr. ██████████, MD, Medical Consultant, Office of Medical Affairs, appeared as a witness for the Department.

ISSUE

Did the Department properly deny the Appellant's prior authorization request for care and treatment at Cincinnati Children's Hospital?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. The Appellant is a █ year old Medicaid beneficiary, born ██████████ ██████████, who suffers from short bowel syndrome. (Exhibit A, pp. 15, 16; Testimony)
2. In ██████████, the Appellant requested prior authorization for a second opinion from the Cincinnati Children's Hospital. (Testimony)
3. In ██████████, the Appellant's prior authorization request was granted. (Testimony)
4. On approximately ██████████, the Appellant requested a prior authorization for a second opinion from the ██████████ Hospital. (Exhibit A, pp. 15-18; Testimony)

5. On or around ██████████, Dr. ██████ and staff reviewed the Appellant's ██████████ prior authorization request and denied the request finding an earlier consultation request was granted in ██████ and did not find a need to establish out of state care. (Exhibit A, p. 8, 13; Testimony)
6. On or around ██████████, the Department sent the Appellant and the Appellant's treating physician a notification of denial related to the ██████████ prior authorization request. (Exhibit A, pp. 6-8; Testimony)
7. On ██████████, the Appellant submitted a second prior authorization request to receive care and services from Cincinnati Children's Hospital. (Exhibit A, pp. 11,12; Testimony)
8. On ██████████, the Appellant requested a hearing regarding the Department's denial of the Appellant's ██████████ prior authorization request. (Exhibit A, p. 4)
9. As of ██████████, the Appellant's second prior authorization request was pending. (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.

The Medicaid Provider Manual provides, in pertinent part, as follows:

7.3 OUT OF STATE/BEYOND BORDERLAND PROVIDERS

Reimbursement for services rendered to beneficiaries is normally limited to Medicaid-enrolled providers. MDCH reimburses out of state providers who are beyond the borderland area (defined below) if the service meets one of the following criteria:

- Emergency services as defined by the federal Emergency Medical Treatment and Active Labor Act (EMTALA) and the Balanced Budget Act of 1997 and its regulations; or
- Medicare and/or private insurance has paid a portion of the service and the provider is billing MDCH for the coinsurance and/or deductible amounts; or

- **The service is prior authorized by MDCH. MDCH will only prior authorize non-emergency services to out of state/beyond borderland providers if the service is not available within the state of Michigan and borderland areas.**

*Medicaid Provider Manual
General Information for Providers Section
January 1, 2014, pp 15, 16.*

SECTION 10 – OUT-OF-STATE MEDICAL CARE

CSHCS covers out-of-state **emergency** medical care when services are related to the qualifying diagnosis. Emergency medical care is defined as a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) that a prudent layperson, with an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in:

- Serious jeopardy to the health of the client;
- Serious impairment to bodily functions; or
- Serious dysfunction of any bodily organ or part.

Non-emergency medical care related to the qualifying diagnosis is defined as not meeting the definition of emergency medical care stated above. Out-of-state non-emergency medical care is covered only when the service has been prior authorized by MDCH. Prior authorization requests for out-of-state services may be approved when all of the following criteria are met:

- The requested service is related to the CSHCS qualifying diagnosis;
- The request for out-of-state referral is submitted by the appropriate, CSHCS-authorized in-state subspecialist with whom the client will maintain a relationship following the out-of-state services, explaining the reason the requested service must be provided out-of-state;
- The in-state subspecialist and the out-of-state specialist maintain a collaborative relationship with regard to determining, coordinating, and providing the client's medical care, including a plan to transition the client back to in-state services as appropriate;

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- Comparable care (the term "comparable care" does not require that services be identical) for the CSHCS qualifying diagnosis cannot be provided within the State of Michigan;
- The requested service is accepted within the context of current medical standards of care as determined by MDCH;
- The service has been determined medically necessary by MDCH because the client's health would be endangered if he were required to travel back to Michigan for services, if applicable.

All out-of-state providers must complete the Community Health Automated Medicaid Processing System (CHAMPS) enrollment process described in the Provider Enrollment Section of the General Information for Providers Chapter to submit claims to MDCH. Out-of-state pharmacies must be enrolled with the MDCH Pharmacy Benefits Manager to submit claims for payment.

Medical care provided in borderland areas is allowed without application of the Out-of-State Medical Care criteria if the provider is enrolled in the Michigan Medicaid Program. Borderland is defined as counties outside of Michigan that are contiguous to the Michigan border and the major population centers (cities) beyond the contiguous line as recognized by MDCH. (Refer to the General Information for Providers Chapter of this manual for additional information.)

The LHD CSHCS offices authorize and assist families with travel for care received in borderland areas in the same manner as for travel in state. Refer to the Travel Assistance section of this chapter for specific information.

*Medicaid Provider Manual
Children's Special Health Care Services Section
January 1, 2014, p 20.*

The Department's witness testified that Appellant's prior authorization request for care and treatment at [REDACTED] Hospital was denied because the Department had granted a similar request in [REDACTED] and the current request failed to establish a need for out of state care.

Appellant's mother testified that at the time of the hearing, the Appellant was no longer receiving care at the [REDACTED] Hospital and indicated treatment at the [REDACTED] Hospital might eliminate the Appellant's use of Total Parenteral Nutrition (TPN).

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Based on the evidence and documentation submitted, Appellant did not prove, by a preponderance of evidence, that the care and treatment requested to be done at [REDACTED] Hospital could not be done in Michigan. The request itself indicates the referral was for a second opinion based upon the Appellant's mother's request and because the Appellant's mother did not feel the Appellant was making progress. This does not identify a need for out of state care.

The Department identified [REDACTED] Hospital as a facility in Michigan where treatment has been performed and where it can continue to be performed. While it is certainly understandable that Appellant's mother would like the Appellant to be seen elsewhere, the Medicaid Provider Manual (MPM) makes it clear that care and treatment will not be approved out of State if the care and treatment can be done in Michigan.

As much as this administrative law judge might sympathize with Appellant and her family, he cannot ignore the clear policy found in the MPM. Accordingly, the Department's denial must be upheld.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly denied the Appellant's request for care and treatment at Cincinnati Children's Hospital.

IT IS THEREFORE ORDERED that:

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

Corey A. Arendt
Administrative Law Judge
for James K. Haveman, Director
Michigan Department of Community Health

[REDACTED]
cc: [REDACTED]

Date Signed: March 28, 2014

Date Mailed: March 28, 2014

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***** 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.