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. 2014-30331 QHP

[redacted], [redacted] [redacted]

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 [redacted]. Appellant appeared and testified on her own behalf. [redacted] Appeals Coordinator, represented [redacted], the Respondent Medicaid Health Plan ("MHP"). [redacted], a Medical Director at the MHP, testified as a witness for Respondent.

ISSUE

Did the MHP properly deny Appellant's requests for Magnetic Resonance Imaging (MRI) of her lumbar spine and right knee?

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 [redacted] year-old Medicaid beneficiary enrolled in the Respondent MHP. (Respondent's Exhibit A, page 19).

2. On or about [redacted], the MHP received prior authorization requests on behalf of Appellant from her primary care physician, [redacted], for MRIs of Appellant's lumbar spine and right knee. (Respondent's Exhibit A, pages 19-26).

3. In the request forms, [redacted] indicated that Appellant had been diagnosed with disc bulge pain and knee pain. (Respondent's Exhibit A, pages 19-21, 24).

4. Medical records attached to the prior authorization requests also indicated that Appellant was treated for chronic back pain and knee pain on [redacted] and [redacted] with [redacted] prescribing Vicodin on both occasions. (Respondent's Exhibit A, pages 22, 26).

5. The documents attached to the prior authorization requests provided that an x-ray of Appellant's right knee on [redacted] revealed:

> **RIGHT KNEE:**
>
> The right knee was examined in multiple projections. There is minimal joint space narrowing medially with bony squaring medially and laterally. No acute fracture is seen.
>
> **IMPRESSION:**
>
> **MINIMAL TO MILD DEGENERATIVE JOINT DISEASE**

Respondent's Exhibit A, page 25

6. [redacted] also wrote a letter on [redacted] stating that Appellant has had acute and chronic back pain for several years and known degenerative joint disease lumbar spine following an automobile accident in [redacted]. (Respondent's Exhibit A, page 23).

7. The letter further provides that a MRI performed in [redacted] showed disc protrusion, disc bulging and decreased height. (Respondent's Exhibit A, page 23).

8. As a recommendation, [redacted] stated:

> We recommend physical therapy. We refill her Vicodin. I recommend neurosurgical consult. She may require a repeat MRI of her spine, we gave her a slip for this. She is to follow up with me after her MRI.

Respondent's Exhibit A, page 23

9. On [redacted], the MHP sent Appellant written notice that the requests for a MRI were being denied. (Respondent's Exhibit A, pages 27-30).

10. Specifically, the denial stated that the requests were being denied based on InterQual Imaging Criteria and that:

> This test 73723 MRI (Magnetic Resonance Imaging) of a Lower Extremity (leg) Joint

> without and with dye is not approved. A [redacted] doctor used accepted rules (InterQual Guidelines) to see if this test is needed. You must meet the rules for MRI of the Knee. Information we received shows that you have knee pain but does not show that a recent course of four weeks of special exercises (physical therapy or home exercise), including documentation of dates and outcomes, has been tried.
>
> This test 72148 MRI (Magnetic Resonance Imaging) of the Lumbar Spine without dye is not approved. A Molina HealthCare doctor used accepted rules (InterQual Guidelines) to see if this test is needed. You must meet the rules for MRI of the Lumbar Spine. Information we received shows that you have back pain but does not show a recent course of four weeks of special exercises (physical therapy or home exercise), including documentation of dates and outcomes, has been tried. You do not meet the rules for this test. Please talk to the provider about health care options.

Respondent's Exhibit A, page 27

11. 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) 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, January 1, 2014 version*
> *Medicaid Health Plan Chapter, page 1*
> *(Emphasis added by ALJ)*

The MDCH-MHP contract provisions likewise provide that the MHP may limit services to those that are medically necessary pursuant to its own prior authorization requirements, utilization management or review criteria:

> E. Services
>
> (1) Covered Services
>
> The covered services that the Contractor has available for enrollees must include, at a minimum, the covered services listed below. The Contractor may limit services to those which are medically necessary and appropriate, and which

conform to professionally accepted standards of care but may not arbitrarily deny or reduce the amount, duration, or scope of a required service solely because of the diagnosis, type of illness, or condition of an enrollee. In general, the Contractor is responsible for covered services related to the following:

- The prevention, diagnosis, and treatment of health impairments
- The ability to achieve age-appropriate growth and development
- The ability to attain, maintain, or regain functional capacity

The Contractor 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 2.024.

* * *

AA. Utilization Management

(1) The major components of the Contractor's utilization management (UM) program 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.

> (e) The UM activities of the Contractor must be integrated with the Contractor's QAPI program.
>
> (2) Prior Approval Policy and Procedure
>
> The Contractor must establish and use a written prior approval policy and procedure for UM 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 UM decisions be made by a health care professional who has appropriate clinical expertise . . .
>
> *Contract No. 071B0200017, Print Version 1/23/2013*
> *Article 1.020 Scope of [Services], pages 22-23, 55*
> *(Emphasis added by ALJ)*

Here, the MHP reviews prior approval requests under the InterQual Imaging Criteria (Respondent's Exhibit A, pages 3-18) and, with respect to MRIs of the lumbar spine or knees, those guidelines describe a number of clinical scenarios and the requirements for an MRI in each scenario. Pursuant to those guidelines, the MHP denied Appellant's requests for MRIs of her lumbar spine and right knee.

Appellant bears the burden of proving by a preponderance of the evidence that the MHP erred in deciding to deny her requests. Moreover, this Administrative Law Judge is limited to reviewing the MHP's decisions in light of the information it had at the time it made those decisions.

In this case, given the information available at the time the MHP made the disputed decisions, the undersigned Administrative Law Judge finds that Appellant has failed to meet her burden of proving that the MHP erred and the decisions to deny the prior authorization requests must therefore be affirmed.

The evidence and documentation submitted in this case generally provide that Appellant has a history of back and knee pain, but there is no suggestion that Appellant meets any of the other applicable criteria, including specific information such as whether Appellant is suffering from nerve damage and what treatments have been attempted and failed. The prior authorization requests and attached documents in this case instead merely provide that Appellant is in pain and, while that pain is undisputed, those statements alone do not meet the criteria for approving the requested MRIs. Accordingly, the denials in this case were proper.

Appellant did testify during the hearing that all of her relevant medical history is not reflected in prior authorization requests or documentation attached to those requests, and that she has had nerve damage in her spine, taken anti-inflammatory medications, and tried all recommended home exercises without success. However, as discussed above, this Administrative Law Judge is limited to reviewing the MHP's decisions in light of the information the MHP had at the time it made those decisions and, in this case, the information submitted does not contain the specific details and information testified to by Appellant.

To the extent Appellant has additional or updated information to provide regarding her medical conditions and the treatment of those conditions, she is free to have her doctor resubmit the requests along all the relevant documents and information. However, with respect to the decisions at issue in this case, the MHP's actions must be affirmed given the available information.

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 requests for MRIs.

IT IS THEREFORE ORDERED that:

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

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.