

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. 2014-30799 QHP
Case No. [REDACTED]

[REDACTED]
Appellant
_____ /

DECISION AND ORDER

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

After due notice, a hearing was held April 29, 2014. [REDACTED], Appeals Coordinator, PHI Air Medical, appeared as Appellant's authorized representative and testified on his behalf. [REDACTED] PHI Appeal Coordinator; and [REDACTED], PHI Clinical Manager, appeared as witnesses for Appellant. [REDACTED], Supervisor of Customer Service; and [REDACTED], Director of Health Services, represented Midwest Health Plan, the Medicaid Health Plan (MHP). Dr. [REDACTED]; and [REDACTED], Utilization Review Manager, appeared and testified as witnesses for the MHP.

ISSUE

Did the MHP properly deny Appellant's request for emergency air transportation?

FINDINGS OF FACT

Based upon the competent, material, and substantial evidence presented, I find, as material fact:

1. Appellant is a [REDACTED]-year-old Medicaid beneficiary, born [REDACTED], who is currently enrolled in the Respondent MHP. (Exhibit A)
2. On September 12, 2013, Appellant presented to the emergency room (ER) at [REDACTED] via EMS, accompanied by his parents, with the chief complaint of seizures.

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3. At the time Appellant presented to ER, Appellant's mother reported that Appellant: had signs of seizure-like activity at home while in the bath; has not had seizures or been on any antiepileptic medications for two years; has a history of cerebral palsy, tracheomalacia, laryngeal malacia, and bronchial malacia; and does not walk or ambulate, but is cognitively appropriate for his age. (Exhibit A, pp. 4-10)
4. When Appellant arrived to GCH, he continued to show signs of active seizures and was therefore given multiple doses of 0.25mg of Ativan, and the decision was made to intubate him to protect his airway. (Exhibit A, p. 10)
5. The decision was made to transfer Appellant to William Beaumont Hospital Royal Oak (WBHRO) for pediatric intensive care and neurology services because these services were not available at GCH; Appellant appeared stable for transport at 1317 when the call was placed to PHI Air Medical; PHI arrived at GCH at 1339 and did not depart with Appellant until 1412; and PHI signed over Appellant at WBHRO at 1445. (Exhibit A, p. 4)
6. Prior authorization for PHI air medical transportation had not been received for Appellant. (Exhibit A, p. 4)
7. PHI Air Medical, LLC, requested that the MHP approve post service authorization for air medical transportation provided to Appellant.
8. On [REDACTED], the MHP sent Appellant and the provider a denial notice, stating that the request for retro/post-service authorization has been reviewed by their physician reviewer and denied on the basis that: the provider did not receive prior authorization for the service; and Appellant could have been transported "just as quickly via ACLS ground ambulance as PHI Air Medical." (Exhibit A, p.1)
9. On [REDACTED] the provider requested a Level 1 review of MHP's denial, stating the reasons emergency air ambulance transportation was medically necessary for Appellant. (Exhibit A, p. 20)
10. On [REDACTED], the MHP sent Appellant and the provider a denial notice, stating that the Level I appeal request for life flight transport from GCH to WBHRO on [REDACTED], has been reviewed by their physician reviewer who is board-certified and was not involved in the initial denial and is of the same or similar specialty of the requesting doctor; and that the physician reviewer

denied the request at the Level I appeal on the basis that no prior authorization had been given, and the decision was based on “evidence-based medical guidelines, scientific facts, FDA regulations, and/or benefit review.” (Exhibit A, p. 17)

11. On ██████████, the provider requested a Level 2 review of the MHP’s Level I appeal denial, stating that prior authorization is not required for emergency transportation and the air transportation was medically necessary. (Exhibit A, p. 38)
12. On ██████████, the MHP upheld the denial of air transportation services provided on ██████████ on the basis that: prior authorization was not obtained before providing the services; ground ambulance would have been quicker than air transportation; Appellant was intubated and stable prior to the decision to transfer; and “since airway was stable and ground ambulance is qualified to do transport with ALS protocol, ground ambulance transfer is appropriate.” (Exhibit A, p. 33)
13. On ██████████, Appellant’s Request for Hearing, protesting the denial of emergent air ambulance services provided on ██████████, was received by the Michigan Administrative Hearing System.

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.

On May 30, 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 Medicaid Health Plans.

The covered services that the Contractor has available for enrollees must include, at a minimum, the covered services listed below (List omitted by Administrative Law Judge). *The Contractor may limit services to those which are medically necessary and*

appropriate, and which conform to professionally accepted standards of care. Contractors must operate consistent with all applicable Medicaid provider manuals and publications for coverage(s) and limitations. (Emphasis added by ALJ) 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 1-Z.

*Article II-G, Scope of Comprehensive Benefit Package.
MDCH contract (Contract) with the Medicaid Health Plans,
September 30, 2004.*

The major components of the Contractor's utilization management plan must encompass, at a minimum, the following:

- Written policies with review decision criteria and procedures that conform to managed health care industry standards and processes.
- A formal utilization review committee directed by the Contractor's medical director to oversee the utilization review process.
- Sufficient resources to regularly review the effectiveness of the utilization review process and to make changes to the process as needed.
- An annual review and reporting of utilization review activities and outcomes/interventions from the review.

The Contractor must establish and use a written prior approval policy and procedure for utilization management purposes. The Contractor may not use such policies and procedures to avoid providing medically necessary services within the coverage(s) 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 utilization management decisions be made by a health care professional who has appropriate clinical expertise regarding the service under review.

*Article II-P, Utilization Management, Contract,
September 30, 2004.*

The DCH-MHP contract provisions require that all services provided be medically necessary. With regard to prior authorization, the Midwest Health Plan Administrative Manual provides, in pertinent part:

Per the terms of the Plan contract with the Michigan Department of Community Health, Members may access any of the following services directly, without prior authorization or referral from the PCP or MHP:

- Emergency Room Services – Facility and Professional Components

* * * *

- Emergency Transportation

* * * *

Exhibit A, pp 25-26

The Michigan Medicaid Provider Manual provides, with regard to Ambulance services, in pertinent part:

1.1 GENERAL INFORMATION

This chapter applies to Ambulance providers and Hospital-Owned Ambulance Services.

The Michigan Department of Community Health (MDCH), which administers the Medicaid Program, reimburses for ambulance services as medically necessary and appropriate when:

- Medical/surgical or psychiatric emergencies exist; and/or
- No other effective and less costly mode of transportation for medical treatment can be used because of the beneficiary's medical condition.

Services that have been excluded from direct reimbursement to ambulance providers are:

- Services that are not medically necessary.

1.2 COMMON TERMS

The following terms have specific meanings in the Ambulance Program:

Emergency Medical Condition

An Emergency Medical Condition is defined as a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:

- Placing the health of the individual (or, with respect to pregnant women, the health of the woman or her unborn child) in serious jeopardy,
- Serious impairment to bodily functions, or
- Serious dysfunction of any bodily organ or part.

1.4 MEDICAL NECESSITY

The medical care personnel in attendance, including the Emergency Medical Technician (EMT) at the scene of an emergency, determine medical necessity and appropriateness of service within the scope of accepted medical practice and Medicaid guidelines. Medical necessity for nonemergency transports must be substantiated with a physician's written order. Ambulance providers must maintain documentation of the medical necessity and appropriateness of service in the beneficiary's file.

2.1 AIR AMBULANCE

MDCH reimburses air ambulance providers who are licensed by the State of Michigan and properly enrolled with MDCH. Providers must indicate on the enrollment application that they are requesting either fixed-wing air ambulance or helicopter air ambulance status.

2.1.B. HELICOPTER AIR AMBULANCE

Helicopter air ambulance providers must submit a copy of their license with their enrollment application. The Medicaid Provider

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Enrollment file reflects enrollment as a helicopter air ambulance provider.

MDCH covers helicopter air ambulance services only under the following circumstances:

- Time and distance in a ground ambulance would be a hazard to the life of the patient.
- Necessary care and services for the beneficiary's needs are not available at the local hospital.
- Transport is for medical or surgical procedures only and not for diagnostic purposes.

(Refer to the Ambulance Services subsection of this chapter for documentation requirements for emergency and medically necessary services.)

Coverage of helicopter air ambulance services includes the helicopter base rate, mileage, and waiting time:

- **Base Rate:** Reimbursement for the helicopter air ambulance base rate includes oxygen, equipment and supplies essential for the provision of services, and accompanying personnel.
- **Mileage:** Mileage may only be billed for loaded air miles.
- **Waiting Time:** Waiting time which exceeds 30 minutes is reimbursable as detailed in the Waiting Time subsection of this section.

*Medicaid Provider Manual
Ambulance Chapter
July 1, 2013*

Appellant's representative is protesting the denial of air medical transportation that was provided to Appellant on ██████████. The MHP denied the request for emergency air transportation on the basis that prior authorization had not been obtained; and medical necessity for air transportation was not met. Under its contract with the Department, an MHP may devise criterion for coverage of medically necessary services, as long as those criteria do not effectively avoid providing medically necessary services.

On the date the service was provided, Appellant presented to GCH with a chief complaint of having seizure-like activity. According to the provider, it was

medically necessary for emergent air ambulance services for the following reasons: Appellant continued to have active seizures despite multiple doses of Ativan; due to the continued seizure activity, Appellant was therefore sedated and intubated for airway protection; the decision was made to transport Appellant to WBHRO because pediatric intensive care services were unavailable at GCH; the chosen method of transport was air ambulance due to Appellant rapidly deteriorating and critical condition; Appellant needed advanced expertise of an air medical crew as critical care management was required enroute due to the need for medication administration and titration, advance ventilator management and the continuation of patient sedation; EMS crews do not have pediatric critical care capabilities; it would have taken ground ambulance 30-60 minutes or more to transport Appellant whose medical condition at the time of pick-up required immediate and rapid transport due to the nature and/or severity of his illness/injury; and Appellant's medical condition met the definition of an emergency medical condition which required emergency transportation that **did not** require prior authorization.

The MHP provided the necessary evidence to support its denial of the request emergency air transportation services. Additionally, the MHP established that its air transportation approval process is consistent with Medicaid policy and allowable under the DCH-MHP contract provisions. Based on the objective medical evidence on the record, Appellant's seizures had been stopped with Ativan prior to the decision to transport. Although the ER physician at GCH made the decision to intubate Appellant for airway protection, there was no medical evidence of Appellant having unstable vital signs. Appellant appeared stable for transport when the call was placed to PHI Air Medical. The provider stated that emergency air transportation was chosen to minimize out of hospital time: 9 minutes via air vs. greater than 35 minutes by ground. (Exhibit A, p. 10) However, Dr. ██████████ from the MHP established that Appellant could have been transported via ground ambulance from GCH to WBHRO via two different routes: M-39N- 20.50 miles, 33 minutes; or North Telegraph Road- 20.40 miles, 35 minutes. According to the MHP: "The patient extubated upon arrival to WBHRO PICU. The patient could have travelled expediently via ground ambulance after intubation, which indicated airway stability." The call was placed for transport at 1317(1:17p), and PHI arrived at GCH at 1339(1:39p). PHI departed with Appellant at 1412(2:12p), and PHI signed over the Appellant at WBHRO at 1445(2:45p). Dr. ██████████ pointed out that the total time lapse from the time the call was placed for air transport until Appellant was signed over to WBHRO was one hour and twenty-eight minutes, which means that Appellant could have been transported just as quickly via ground ambulance as PHI Air Medical.

In conclusion, Appellant's representative failed to meet the burden of establishing that emergency air transportation was medically necessary for Appellant. Therefore, the MHP's decision is upheld.

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 emergency air transportation.

IT IS THEREFORE ORDERED that:

The Medicaid Health Plan's decision is AFFIRMED.

/s/
Marya A. Nelson-Davis
Administrative Law Judge
for James K. Haveman, Director
Michigan Department of Community Health

Date Signed: May 14, 2014

Date Mailed: May 14, 2014

MAND/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 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.