

**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.** 2014-31038 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's daughter, appeared and testified on Appellant's behalf. Appellant was also present during the hearing, but did not participate. ██████████ paralegal, represented ██████████, the Respondent Medicaid Health Plan ("MHP"). ██████████, Medical Director, testified as a witness for Respondent.

**ISSUE**

Did the MHP properly deny Appellant's request for varicose vein treatments for her right and left lesser saphenous veins?<sup>1</sup>

**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 9).
2. On or about ██████████, the MHP received a prior authorization request submitted on behalf of Appellant from ██████████ for varicose vein treatments (radiofrequency vein ablation) on Appellant's left greater saphenous vein; right greater saphenous vein; left lesser saphenous vein; and right lesser saphenous vein. (Respondent's Exhibit A, pages 9-16).

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<sup>1</sup> As discussed below, while Appellant also appealed the denial of varicose vein treatments for her right and left greater saphenous veins, the MHP approved those procedures after the request for hearing was filed and they are no longer in dispute.

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3. In the request form, ██████████ indicated that Appellant had been diagnosed with varicose veins. (Respondent's Exhibit A, page 9).
4. Medical records attached to the prior authorization request also indicated that Appellant has varicose veins, with occasional bleeding from the veins, and that ██████████ has been conservatively treating those veins. (Respondent's Exhibit A, page 10).
5. However, as Appellant was still complaining of bilateral lower extremity pain and swelling, despite the fact that she been wearing compression stockings for the past █-and-a-█ months, ██████████ now wanted to proceed with four treatment sessions of radiofrequency vein ablation. (Respondent's Exhibit A, pages 10-12).
6. The records also indicated that a venous insufficiency report completed on ██████████ had revealed:

the right greater saphenous vein has █ seconds of reflux representing venous insufficiency. The left greater saphenous vein has █ seconds of reflux representing venous insufficiency. The left lesser saphenous vein distal has █ seconds of reflux representing venous insufficiency. Negative for the right lesser saphenous vein reflux. However, right SSV appears to be mildly dilated.

*Respondent's Exhibit A, page 14*

7. Additionally, regarding the size of the veins in the applicable areas, the records submitted along with the prior authorization request stated that the left greater saphenous vein is █ millimeters (mm); the right greater saphenous vein █ mm; the left lesser saphenous vein is █ mm; and right lesser saphenous vein is █ mm. (Respondent's Exhibit A, page 15; Testimony of ██████████).
8. On ██████████, the MHP sent Appellant written notice that the prior authorization request for a varicose vein treatments was denied. (Respondent's Exhibit A, page 3).
9. Specifically, the denial notice stated:

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

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You are a █████ year old female. You asked for procedure for large veins in your leg. This is denied. As per █████ rules, this must be medically necessary. Your doctor notes should show that your veins are a certain size by ultrasound. Your doctor notes should show that blood flows backwards in your veins. If this is met, your doctor notes must show other information. Your doctor notes could show that you have skin sores. Your doctor notes could show that you have clots in your veins near your skin. Your doctor notes should show that you have trouble performing mobility related activities of daily living. We need this information. If we get this, we will be glad to look at this again. Please call your doctor if you have questions.

*Respondent's Exhibit A, page 3*

10. On █████, the Michigan Administrative Hearing System (MAHS) received the request for hearing filed by Appellant in this matter. (Respondent's Exhibit A, pages 5-6).
11. █████ subsequently reviewed Appellant's request for hearing and medical records, in addition to speaking directly with █████ (Testimony of █████).
12. Following that review, the MHP decided to approve the procedures requested by Appellant for both the right and left greater saphenous veins. (Testimony of Appellant's representative; Testimony of █████).
13. However, the MHP continues to deny the request for procedures for the right or left lesser saphenous veins. (Testimony of Appellant's representative; Testimony of █████).

**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.

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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)*

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Here, the MHP has developed utilization management and review criteria regarding Surgical and Ablative Procedures for Venous Insufficiency and Varicose Veins (Respondent's Exhibit A, pages 17-25) and, in the relevant part, that criteria states:

**II. Criteria for a Coverage Determination as Reconstructive**

**REVIEW NOTES:**

- Each of the requested surgical excisions or catheter entry points should be reviewed independently for coverage.
- **This policy does not address stab phlebectomy or sclerotherapy or other procedures not addressed in the Coding Section of this policy.**

A. Varicose vein treatments (radiofrequency ablation, endovenous laser ablation, stripping, ligation and excision) for the great saphenous vein, small saphenous vein or principle branches are considered reconstructive when all of the following criteria are present. The plan can include either single or combination treatments. Only one procedure code submitted per named vein will be considered for each vein:

1. Condition is caused by venous insufficiency.
2. Vein size by ultrasound:
  - a. If the planned ablation involves the great saphenous vein, the vein must be 5.5 mm or greater in transverse diameter, as measured by duplex ultrasonography below the saphenofemoral junction (not valve diameter)
  - b. If the planned ablation involves the small saphenous vein, the vein must measure 5 mm or greater in diameter just below the saphenopopliteal junction.
  - c. If the planned ablation involves the named principal branches, the vein must measure 5 mm or greater in diameter.

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(Note; repeat studies/images submitted for evaluation must be time and date stamp and confirm that repeat measurements were taken at the same level as the initial report)

- d. If there is either bleeding or ulceration related to the varicose vein in question that has moderate or severe reflux as noted below, then vein sizes of lower diameters will be accepted.
3. Documentation in a signed report of duration of reflux, as measured by Spectral Wave Form study, in the standing or reverse Trendelenburg position that meets the following parameters:
    - a. Greater than or equal to 500 milliseconds (ms) for the great saphenous, small saphenous or principal branches.
    - b. Perforating veins  $\geq$  350 ms
    - c. Some duplex ultrasound readings will describe this as moderate to severe reflux which will be acceptable.
  4. Member must have one of the following functional impairments or treatments documented in the contemporaneous office notes and submission of the planned procedure(s) including CPT codes per venous system, i.e. which extremity(s), venous system(s) and procedure(s) planned per vein. **(skin changes must be documented with high quality color photography with patient ID):**
    - a. Skin ulceration **OR**
    - b. Documented episode(s) of frank bleeding of the varicose vein due to erosion of or trauma to the skin **OR**
    - c. Documented superficial thrombophlebitis or documented venous stasis dermatitis **(high quality color photography documenting noted skin changes, with patient ID, may be requested) OR**

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- d. Moderate or severe pain causing limitations of activities and if done, the documentation of a trial of compression hose that supports the relief of extremity pain and improved function

*Respondent's Exhibit A, pages 18-19*

Pursuant to those guidelines, the MHP denied Appellant's requests for varicose vein treatments for her right or left lesser saphenous veins. As testified to by ██████████ the documents submitted along with the prior authorization request indicated that those ██████ veins failed to meet the size criteria found in the above policy.

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, 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 submitted in this case undisputedly demonstrates that the documented vein size of Appellant's right and left lesser saphenous veins is less than the size required by the criteria to approve varicose vein treatments. As such, the denial was proper.

In response, Appellant's representative testified that Appellant has told her that Appellant's smaller veins cause more pain than Appellant's larger veins. Appellant's representative also noted that the smaller veins are likely to become larger in the future.

However, the above criteria are clear and Appellant does not meet it. Moreover, as testified to by ██████████, Appellant's pain may decrease after the approved treatments are performed on her greater saphenous veins.

Additionally, to the extent Appellant's condition changes in the future and her right or left lesser saphenous veins becomes enlarged, she is free to have her doctor submit a new request for varicose vein treatments for those veins in the future if appropriate. With respect to the decision at issue in this case, however, the MHP's actions must be affirmed for the reasons stated above.

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**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 varicose vein treatments for her right and left lesser saphenous veins.

**IT IS THEREFORE ORDERED** that:

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

*Steven Kibit*

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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.