

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

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IN THE MATTER OF:

██████████,

Appellant

Docket No. 2014-34880 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 Grandfather, appeared and testified on Appellant's behalf. ██████████, Appeals Review Officer, represented the Respondent, Department of Community Health (DCH or Department). Dr. ██████████, MD, Assistant Medical Director, appeared as a witness for the Department.

ISSUE

Did the Department properly deny the Appellant's prior authorization request for a 2 piece Lefort and BSSO?

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 an ██████ year old Medicaid beneficiary, born ██████████ ██████████, who suffers from maxillary hypoplasia and mandibular hypoplasia. (Exhibit A, pp. 6, 9; Testimony)
2. On ██████████, the ██████████ Health Systems Oral & Maxillofacial Surgery Department submitted a prior authorization request on behalf of the Appellant for a 2 piece lefort and BSSO. (Exhibit A, pp. 9-14; Testimony)
3. On ██████████, the Department sent the Appellant and the ██████████ Health Systems notices indicating the prior authorization request was denied. The notice indicated the procedures were denied due to a lack of medical necessity. (Exhibit A, pp. 6-8; Testimony)

4. On ██████████, the Michigan Administrative Hearings System (MAHS) received from the Appellant a request for hearing. (Exhibit A, p. 5)
5. At no point in time from approximately ██████ has the Appellant been hospitalized for malnutrition. (Testimony)
6. There is no record of the maxillary hypoplasia and mandibular hypoplasia causing pain to the Appellant. (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:

8.3 Noncovered Services

The items or services listed below are not covered by the Medicaid program:

- Acupuncture
- Autopsy
- Biofeedback
- **All services or supplies that are not medically necessary**
- Experimental/investigational drugs, biological agents, procedures, devices or equipment
- Routine screening or testing, except as specified for EPSDT Program or by Medicaid policy
- Elective cosmetic surgery or procedures
- Charges for missed appointments
- Infertility services or procedures for males or females, including reversal of sterilizations
- Charges for time involved in completing necessary forms, claims, or reports

When the beneficiary needs a medical service recognized under State Law, but not covered by Medicaid, the service provider and the beneficiary must make their own payment arrangements for that noncovered service. The beneficiary must be informed, prior to rendering of service, that Medicaid does not cover the service. A Medicaid beneficiary in a nursing facility can use his patient-pay funds to purchase noncovered services subject to MDCH verification of medical necessity and the provider's usual and customary charge.

*Medicaid Provider Manual
General Information for Providers Section
April 1, 2014, pp 18, 19.*

SECTION 12 – SURGERY – GENERAL

Medicaid covers medically necessary surgical procedures.

*Medicaid Provider Manual
Practitioner Chapter
April 1, 2014, p 60.*

13.3 Cosmetic Surgery

Medicaid only covers cosmetic surgery if PA has been obtained. The physician may request PA if any of the following exist:

- The condition interferes with employment.
- It causes significant disability or psychological trauma (as documented by psychiatric evaluation).
- It is a component of a program of reconstructive surgery for congenital deformity or trauma.
- It contributes to a major health problem.

The physician must identify the specific reasons any of the above criteria are met in the PA request.

*Medicaid Provider Manual
Practitioner Chapter
April 1, 2014, p. 66.*

The Department's witness testified that Appellant's prior authorization request was denied as the documentation provided with the request did not show that the surgery was medically necessary. Specifically, the documentation failed to identify the existence of pain or malnourishment.

The Appellant's witness testified the Appellant did not suffer from malnourishment and did not identify pain as a reason for surgery. Rather the Appellant's witness focused on the Appellant's character development and reaching his full potential. The witness indicated the Appellant was made fun of and was in the process of withdrawing himself.

I do not find this surgery as identified generally, meets the requirements for approval under the Medicaid Provider Manual. And although it was not identified as cosmetic in nature, I also reviewed it under the section cited above. And again, I do not find that it meets the requirements for approval as identified in the manual. The PA request did not identify any of the components as required.

Based on the evidence and documentation submitted, Appellant did not prove, by a preponderance of evidence, that the surgery requested was of medical necessity.

As much as this administrative law judge might sympathize with Appellant and his family, he cannot ignore the clear policy found in the Medicaid Provider Manual. 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.

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

CAA [REDACTED]

cc: [REDACTED]

Date Signed: [REDACTED]

Date Mailed: [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.