

**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.** 2014-35120 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 a request for a hearing filed on behalf of the minor Appellant.

After due notice, a hearing was held on ██████████, Appellant's legal guardian, appeared and testified on Appellant's behalf. ██████████, Appeals Coordinator, represented ██████████, the Respondent Medicaid Health Plan ("MHP"). ██████████, a Medical Director at the MHP, testified as a witness for Respondent.

**ISSUE**

Did the MHP properly deny Appellant's request for outpatient speech therapy services?

**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 was born on ██████████ and was ██████ years-old at the time of the hearing. (Respondent's Exhibit A, page 6).
2. On or about ██████████, the MHP received a prior authorization request made on behalf of Appellant for speech therapy services through the MHP. (Respondent's Exhibit A, pages 5-9).
3. In that request, it was noted that Appellant has been diagnosed with receptive language delay. (Respondent's Exhibit A, pages 6).
4. A Speech-Language Pathology Evaluation was also attached to the prior authorization request and, in that report, it was noted that Appellant had recently begun speech therapy services through the Early On program, as

**Docket No. 2014-35120 QHP**  
**Decision and Order**

part of Appellant's school system. (Respondent's Exhibit A, page 10).

5. The evaluation also stated that the requested speech therapy through the MHP was to be short-term and would provide Appellant's caregivers with education regarding methods to encourage speech and language development. (Respondent's Exhibit A, pages 7-8).
6. On or about [REDACTED], the MHP sent Appellant written notice that the request for speech therapy services was denied. (Respondent's Exhibit A, pages 10-13).
7. Regarding the denial, the notice provided in part:

Per the [REDACTED] member Handbook Appendix B – Coordination of Care Services C – Developmental Disability Services: Development disability services are not covered by the Member Agreement. The Michigan Department of Community Health Medicaid Provider Manual: Outpatient Therapy Services to School-Aged Beneficiaries (members) recognizes that school-aged members may be able to receive therapies through multiple sources (different places of service), and the MHP (Medicaid health plan) may refer and coordinate services through these different agencies as needed. Members may be eligible to receive developmental disability services including physical therapy, occupational therapy or speech therapy through coordinating agencies such as Early On and Project Find by way of the school setting as part of an individualized education plan.

*Respondent's Exhibit A, page 10*

8. On [REDACTED], the Michigan Administrative Hearing System (MAHS) received the request for hearing filed on behalf of Appellant in this case. (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

**Docket No. 2014-35120 QHP**  
**Decision and Order**

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.

### **1.1 SERVICES COVERED BY MEDICAID HEALTH PLANS (MHPS)**

The following services must be covered by MHPs:

- Ambulance and other emergency medical transportation
- Blood lead services for individuals under age 21
- Certified nurse-midwife services
- Certified pediatric and family nurse practitioner services
- Childbirth and parenting classes
- Chiropractic services
- Diagnostic lab, x-ray and other imaging services
- Durable medical equipment and medical supplies
- Emergency services
- End Stage Renal Disease (ESRD) services
- Family planning services
- Health education
- Hearing and speech services
- Hearing aids
- Home health services
- Hospice services (if requested by enrollee)
- Immunizations
- Inpatient and outpatient hospital services

**Docket No. 2014-35120 QHP**  
**Decision and Order**

- Intermittent or short-term restorative or rehabilitative nursing care (in or out of a facility) for up to 45 days
- Medically necessary transportation for enrollees without other transportation options
- Medically necessary weight reduction services
- Mental health care (up to 20 outpatient visits per calendar year)
- Out-of-state services authorized by the MHP
- Outreach for included services, especially pregnancy-related and well-child care
- Pharmacy services
- Podiatry services
- Practitioner services (such as those provided by physicians, optometrists, or oral maxillofacial surgeons)
- Prosthetics and orthotics
- Therapies (speech, language, physical, occupational)
- Tobacco cessation treatments, including pharmaceutical and behavior support
- Transplant services
- Transportation for medically necessary covered services
- Treatment for sexually transmitted disease (STD)
- Vision services
- Well child/EPSTD for individuals under age 21

## **1.2 SERVICES EXCLUDED FROM MHP COVERAGE BUT COVERED BY MEDICAID**

The following Medicaid services are not covered by MHPs:

- Custodial care in a licensed nursing facility; restorative or rehabilitative nursing care in a licensed nursing care facility beyond 45 days
- Certain dental services (Refer to the Dental chapter of this manual for additional information.)
- Specific injectable drugs administered through a PIHP/CMHSP clinic to MHP enrollees are reimbursable by MDCH on a fee-for-service basis. (Refer to the Injectable Drugs and Biologicals subsection of the Practitioner Chapter of this manual for additional information.)
- Home and Community Based Waiver program services
- Inpatient hospital psychiatric services (MHPs are not responsible for the physician cost related to providing a psychiatric admission physical and histories. However, if physician services are required for other than psychiatric care during a psychiatric inpatient admission, the MHP would be responsible for covering the cost, provided the service has been prior authorized and is a covered benefit.)
- Maternal Infant Health Program (MIHP)
- Mental health services outside the MHP's contractual responsibility
- Outpatient partial hospitalization psychiatric care
- Personal care or home help services
- Private Duty Nursing services

**Docket No. 2014-35120 QHP**  
**Decision and Order**

- Services provided to persons with developmental disabilities and billed through the Community Mental Health Services Program (CMHSP)
- Services provided by a school district and billed through the Intermediate School District
- Substance abuse services through accredited providers, including:
  - Screening and assessment;
  - Detoxification;
  - Intensive outpatient counseling and other outpatient services; and
  - Methadone treatment
- Transportation for services not covered by the MHP.

**1.3 SERVICES THAT MHPS ARE PROHIBITED FROM COVERING**

- Elective therapeutic abortions and related services. Abortions and related services are covered when medically necessary to save the life of the mother or if the pregnancy is a result of rape or incest;
- Experimental/Investigational drugs, procedures or equipment;
- Elective cosmetic surgery; and
- Services for treatment of infertility.

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

**Docket No. 2014-35120 QHP  
Decision and Order**

Moreover, the pertinent section of the MPM also states:

**5.3 SPEECH THERAPY**

The terms speech therapy, speech-language pathology, speech-language therapy, and therapy are used to mean speech and language rehabilitation services and speech-language therapy.

MDCH covers speech-language therapy provided in the outpatient setting. MDCH only reimburses services for speech-language therapy when provided by:

- A speech-language pathologist (SLP) with a current Certificate of Clinical Competence (CCC).
- An appropriately supervised SLP candidate (i.e., in their clinical fellowship year [CFY]) or having completed all requirements but has not obtained a CCC. All documentation must be reviewed and signed by the appropriately credentialed supervising SLP.
- A student completing his clinical affiliation under direct supervision of (i.e., in the presence of) an SLP having a current CCC. All documentation must be reviewed and signed by the appropriately credentialed supervising SLP.

MDCH expects that all SLPs will utilize the most ethically appropriate therapy within their scope of practice as defined by Michigan law and/or the appropriate national professional association.

**For all beneficiaries of all ages**, speech therapy must relate to a medical diagnosis, and is limited to services for:

- Articulation
- Language
- Rhythm
- Swallowing
- Training in the use of an speech-generating device
- Training in the use of an oral-pharyngeal prosthesis
- Voice

**For CSHCS beneficiaries** (i.e., those not enrolled in

**Docket No. 2014-35120 QHP**  
**Decision and Order**

Medicaid; only enrolled with CSHCS), therapy must be directly related to the CSHCS-eligible diagnosis(es) and prescribed by the specialty physician who is overseeing the care of the beneficiary.

Therapy must be reasonable, medically necessary and expected to result in an improvement and/or elimination of the stated problem within a reasonable amount of time (i.e., when treatment is due to a recent change in medical or functional status affecting speech, and the beneficiary would experience a reduction in medical or functional status without therapy).

Speech therapy services must be skilled (i.e., require the skills, knowledge and education of a certified SLP to assess the beneficiary for deficits, develop a treatment program and provide therapy). Interventions that could be provided by another practitioner (e.g., teacher, registered nurse [RN], licensed physical therapist [LPT], registered occupational therapist [OTR], family member, or caregiver) would not be reimbursed as speech therapy by MDCH.

For beneficiaries of all ages, therapy is **not** covered:

- When provided by an independent SLP.
- For educational, vocational, social/emotional, or recreational purposes.
- If services are required to be provided by another public agency (e.g., PIHP/CMHSP provider, SBS).
- When intended to improve communication skills beyond premorbid levels (e.g., beyond the functional communication status prior to the onset of a new diagnosis or change in medical status).
- If it requires PA but is rendered before PA is approved.
- If it is habilitative. Habilitative treatment includes teaching someone communication skills for the first time without compensatory techniques or processes. This may include syntax or semantics (which are developmental) or articulation errors that are within the normal developmental process.
- If it is designed to facilitate the normal progression of development without compensatory techniques or processes.
- If continuation is maintenance in nature.
- If provided to meet developmental milestones.

- If Medicare does not consider the service medically necessary.

### **5.3.A. DUPLICATION OF SERVICES**

Some areas (e.g., dysphagia, assistive technology) may appropriately be addressed by more than one discipline (e.g., OT, PT, speech therapy) in more than one setting. MDCH does not cover duplication of services, i.e., where two disciplines are working on similar areas/goals. It is the treating therapist's responsibility to communicate with other practitioners, coordinate services, and document this in his reports.

### **5.3.B. SERVICES TO SCHOOL-AGED BENEFICIARIES**

School-aged beneficiaries may be eligible to receive speech-language therapy through multiple sources. Educational speech is expected to be provided by the school system and is not covered by MDCH or CSHCS. Examples of educational speech include enhancing vocabulary, improving sentence structure, improving reading, increasing attention span, and identifying colors and numbers. Only medically necessary therapy may be provided in the outpatient setting. Coordination between all speech therapy providers should be continuous to ensure a smooth transition between sources.

Outpatient therapy provided to school-aged children during the summer months in order to maintain the therapy services provided in the school are considered a continuation of therapy services when there is no change in beneficiary diagnosis or function. Prior authorization is required before initiating a continuation of therapy.

If a school-aged beneficiary receives medically necessary therapy services in both a school setting (as part of an Individualized Education Plan [IEP]) and in an outpatient setting, coordination of therapy between the providers is required. Providers are to maintain documentation of coordination in the beneficiary's file.

*MPM, January 1, 2014 version  
Outpatient Therapy Chapter, pages 18-20*

Here, the MHP's witness explained that the requested speech therapy services were

**Docket No. 2014-35120 QHP**  
**Decision and Order**

denied based upon the above Medicaid Provider Manual policy that does not allow for MHP coverage of educational speech therapy provided by a school district and billed through the Intermediate School District. The prior authorization request and attached evaluation indicated that Appellant has recently begun speech therapy through her school district and such therapy was both educational in nature and sufficient to meet Appellant's needs. Accordingly, the request was denied.

In response, Appellant's representative testified that the speech therapy services through the school are inadequate and Appellant needs additional services throughout the year. She also testified that, subsequent to the denial at issue in this case, an Individualized Education Program (IEP) was developed through Appellant's school and that the IEP expressly notes a need for additional speech therapy services outside the school. Appellant's representative further testified that the school year is now over and Appellant's services through the school have stopped.

Appellant bears the burden of proving by a preponderance of the evidence that the MHP erred in denying the prior authorization request for speech therapy services. Moreover, the undersigned Administrative Law Judge's jurisdiction is limited to reviewing the MHP's decision in light of the information it had at the time it made that decision.

Given the available information in this case, Appellant failed to meet her burden of proof and the MHP's decision must be affirmed. The above cited Medicaid policy clearly states that speech therapy is generally not covered through the MHP when it is for educational services provided by the beneficiary's school district and it is undisputed that Appellant had recently begun receiving speech therapy through her school at the time of the request. Moreover, while Appellant's representative now claims that the school-based services are insufficient, there was no such assertion or evidence supporting such an assertion within the prior authorization request itself. Instead, the request and evaluation merely recommended some short-term additional speech therapy without indicating any need for such services or a need to coordinate with the school district. Similarly, while the school year is now over and services may have stopped, it is undisputed that Appellant was receiving services through the school at the time of the denial.

To the extent Appellant's circumstances have changed since the denial at issue in this case, her representative/guardian may submit a new request for speech therapy services, along with new or updated information supporting that request. With respect to the denial at issue in this case, however, the MHP's decision must be affirmed given the available information.

**Docket No. 2014-35120 QHP**  
**Decision and Order**

**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 speech therapy.

**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.