

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

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IN THE MATTER OF:

██████████,

Appellant

Docket No. 2014-35491 QHP

Case No. ██████████

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 the Appellant's request for a hearing.

After due notice, a hearing was held on ██████████. ██████████, Appellant's mother appeared and testified on Appellant's behalf. ██████████, Appeals Coordinator, represented ██████████ of Michigan, the Medicaid Health Plan (MHP). Dr. ██████████, Medical Director, appeared as a witness for the MHP.

ISSUE

Did the MHP properly deny Appellant's request for Chiropractic services?

FINDINGS OF FACT

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

1. Appellant is an █████ year old female Medicaid beneficiary who is currently enrolled in the Respondent MHP. Appellant sought chiropractic care for allergies. (Exhibit A, p. 8; Testimony)
2. On or about ██████████, the MHP received a request for authorization seeking chiropractic care from ██████████. (Exhibit A, pp. 6-8)
3. On ██████████, the MHP sent the Appellant a denial notice stating that the request was denied because the requested care was determined by the MHP's Medical Director to be experimental, investigational, or unproven. (Exhibit A, pp. 9, 10; Testimony)
4. On ██████████, the Appellant's Request for Hearing was received by the Michigan Administrative Hearing System.

5. The Council of Chiropractic Guidelines and Practice Parameters (CCGPP) determined the current medical evidence for manipulation in children under █████ years old is scant, at best as there is only one randomized controlled trial for manipulation of musculoskeletal conditions in patients under 12 years of age and therefore determined investigational at best. (Exhibit A, p. 3; 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.

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. The MHP's Policy with regard to Experimental/Investigational/Unproven Care is found in its member services handbook, which states:

Experimental, Investigational or Research Drug, Device, Supply, Treatment, Procedure or Equipment means a drug, device, supply, treatment, procedure or equipment meeting one or more of the following criteria:

1. . . . at the time of its use or proposed use, it is not routinely or widely employed or is otherwise not generally accepted by the medical community.

As stated in the Department-MHP contract language above, a MHP, “must operate consistent with all applicable Medicaid Provider Manuals and publications for coverages and limitations.” The pertinent section of the Michigan Medicaid Provider Manual (MPM) states:

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

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

The MHP’s Medical Director testified the request had to be denied because the requested procedure was experimental, investigational and unproven based upon the CCGPP.

The Appellant’s Representative did not offer any evidence to rebut the MHP’s determination that the chiropractic care being requested was experimental, investigational or unproven. Rather, the Representative testified the care being requested alleviated the Appellant’s illnesses. This in and of itself is insufficient.

After review of the record and review of the applicable policy, I have concluded the MHP was correct in their decision to deny the Appellant’s prior authorization request. I do not find this request as identified generally, meets the requirements for approval under the Medicaid Provider Manual.

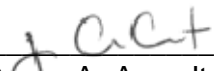
As much as this administrative law judge might sympathize with Appellant, he cannot ignore the clear policy found in the Medicaid Provider Manual. Accordingly, the MHP’s denial must be upheld.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the MHP 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.