

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:

██████████

Appellant

Docket No. 2014-35794 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 Appellant's request for a hearing.

After due notice, a hearing was held ██████████. ██████████, Appeals Coordinator, ██████████, appeared and testified on Appellant's behalf. ██████████ Clinical Manager; ██████████ Director of Patient Financial Services; and ██████████, Medical Director, ██████████; appeared as witnesses for Appellant.

██████████, Director of Customer Service, represented ██████████, the Medicaid Health Plan (MHP). Dr. ██████████, Chief Medical Officer; ██████████, RN, Director of Health Services, and ██████████, Customer Service Supervisor, appeared as witnesses for the MHP.

ISSUE

Did the MHP properly deny Appellant's request for reimbursement 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 ██████-year-old Medicaid beneficiary, born ██████████, who is currently enrolled in the Respondent MHP. (Exhibit A, p 25)
2. On ██████████, following emergency air transportation provided to Appellant on ██████████, the provider, ██████████, LLC, requested post service authorization for the transport from Respondent MHP. (Exhibit A, pp 40-52; Testimony)

3. On ██████████, the MHP sent Appellant and the provider a denial notice stating that the request was denied because the provider did not receive prior authorization for air transport and it would have been more appropriate to transport Appellant via ACLS ambulance since he was stable at the transferring hospital and in no acute distress and speaking in short sentences when he arrived at the receiving hospital. (Exhibit A, pp 53-54)
4. On ██████████, the provider requested a Level 1 review of Respondent MHP's determination. The request for review contained Appellant's medical records from both the transferring and receiving hospital. (Exhibit A, pp 20-52; Testimony)
5. On ██████████, the MHP upheld the original denial, finding that no prior authorization was requested and that air transportation was not required because Appellant was stable enough to be transferred by ACLS ambulance. (Exhibit A, pp 15-20; Testimony)
6. On ██████████, the provider requested a Level 2 review of Respondent MHP's determination, in which it argued that prior authorization is not required for emergency transportation and that the air transportation was medically necessary. (Exhibit A, pp 8-11; Testimony)
7. On ██████████, the MHP again upheld the original denial, finding that there was no overall advantage to using air transport as compared to ground transport, the Appellant's condition was stable throughout, and that the Michigan Department of Community Health (MDCH) only covers air ambulance if:
 - 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. (Exhibit A, pp 5-7; Testimony)
8. On ██████████, Appellant's Request for Hearing was received by the Michigan Administrative Hearing System. (Exhibit 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

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

* * * *

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 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
October 1, 2013, pp 1-6*

In its denial notice, the MHP indicated that Appellant did not meet the criteria for air transport because prior authorization was not obtained, and medical necessity for air transport was not met because Appellant was stable from a respiratory standpoint at the time of transport and at the time of arrival.

Appellant's representative argued that, under the Medicaid Provider Manual, prior authorization is not required for emergency transport, and that medical necessity did exist for air transport.

Here, it would appear from the above policy that Appellant's representatives are correct that prior authorization would not be required for the air transport at issue here because the MHP's own policy indicates that prior authorization is not required for "Emergency Transportation". It is reasonable to conclude that "Emergency Transportation" would include the air transport at issue here. So, the only question is whether it was medically necessary to transport Appellant via air.

The MHP's Chief Medical Officer testified that there was no question that Appellant needed to be transferred because the transferring hospital did not have a pediatric intensive care unit and the receiving hospital did. The MHP's Chief Medical Officer indicated that the MHP only found that air transportation was not medically necessary. The MHP's Chief Medical Officer indicated that if there was really a concern about Appellant decompensating during transportation, he would have been intubated before transportation. The MHP's Chief Medical Officer testified that it then follows that if he was stable enough to be transported without intubation, then he was stable enough to be transferred via ground transportation.

██████████'s Medical Director testified that the physicians at the transferring hospital were concerned because Appellant continued to have trouble breathing, he had been maxed out on available care, and his condition was worsening. ██████████'s Medical Director testified that time to the receiving hospital is only part of the equation and that air transport has more capabilities than ground transport if Appellant decompensated during transportation. ██████████'s Medical Director testified that all physicians involved in the decision concurred that air transport was medically necessary for Appellant.

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. The MHP's air transport approval process is consistent with Medicaid policy and allowable under the DCH-MHP contract provisions. A close look at the documentation submitted supports the MHP's position that air transport was not medically necessary. Here, Appellant was in stable condition at the transferring hospital and was speaking in short sentences. Upon arrival at the receiving hospital, Appellant was in good spirits and still speaking in short sentences. Appellant did not require intubation at the transferring hospital or during transportation. Given the above, it is difficult to see how emergency transportation was medically necessary or that time and distance in a ground ambulance would have been a hazard to Appellant's life. The MHP's determination is upheld based on the documentation submitted.

[REDACTED]
Docket No. 2014-35794 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 emergency air transportation based on the submitted documentation.

IT IS THEREFORE ORDERED that:

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



Robert J. Meade
Administrative Law Judge
for James K. Haveman, Director
Michigan Department of Community Health

cc:

[REDACTED]

RJM [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.