

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. 2014-36015 QHP
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.*, and upon the Appellant's request for a hearing.

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

ISSUE

Did the MHP properly deny Appellant's prior authorization request for ear reconstruction surgery?

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 6).
2. On or about ██████████, the MHP received a prior authorization request submitted on behalf of Appellant from her medical provider and requesting ear reconstruction surgery. (Respondent's Exhibit A, pages 6-14).
3. Documentation submitted along with that request indicated that Appellant has been diagnosed with microtia and has been complaining about an ear deformity. (Respondent's Exhibit A, pages 6, 13-14).
4. No other basis for the surgery was identified in the request or supporting documentation. (Respondent's Exhibit A, pages 6-14).

5. On ██████████, the MHP sent Appellant written notice that the request for surgery was denied. (Respondent's Exhibit A, pages 15-18).
6. Regarding the reason for the denial, the notice stated:

Your request was denied based on Molina Healthcare of Michigan Utilization Guideline for Cosmetic Surgery criteria.

Reason for the Denial

The Molina Healthcare of Michigan Utilization Guideline for Cosmetic Surgery, cosmetic surgery is medically necessary when the following is met: 1) potentially malignant, cause pain, recurrent infections, or cause extreme emotional distress as reported by a psychiatrist, psychologist, or primary care physician, 2) surgery to correct the result of an injury, 3) post mastectomy breast reconstruction, 4) surgery needed to correct congenital defects such as cleft lip or palate, 5) specific indications, otoplasty: performed to improve hearing, whether the ears are absent or deformed from trauma, surgery disease or congenital defect. Otoplasty performed to correct large or protruding ears is cosmetic and is not covered when the surgery will not improve hearing. The information sent shows the member has the medical condition of microtia (abnormal smallness of external ear). However there is no documentation indicating (showing) medical necessity. It appears the procedure is cosmetic. Therefore the requested cosmetic surgery to ear (CPT15576, 15630, 14060) is denied.

Respondent's Exhibit A, page 15

7. On ██████████, the Michigan Administrative Hearing System (MAHS) received the Request for Hearing filed in this matter. (Respondent's Exhibit A, page 2).

Docket No. 2014-36015 QHP
Decision and Order

8. In that request, Appellant asserts that her ear swells when she wears earrings and that she is embarrassed when people see her ear. (Respondent's Exhibit A, page 2).

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.

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.

* * *

1.3 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, April 1, 2014 version
Medicaid Health Plan Chapter, pages 1, 3
(Emphasis added by ALJ)*

Similarly, regarding cosmetic surgeries, the MHP has developed utilization guidelines that provide that cosmetic surgery that is performed solely to improve appearance is not covered and that the MHP will only consider cosmetic surgery to be medically necessary and covered if (1) the condition is potentially malignant or causes pain, recurrent infections or extreme emotional distress, as reported by a psychiatrist, psychologist, or primary care physician; (2) the surgery will correct the result of an injury; (3) the surgery constitutes post mastectomy breast reconstruction; (4) the surgery is needed to correct congenital defects such as cleft lip or palate; or (5) specific indications are present regarding earlobe repair after a traumatic injury, facial plastic surgery, skin lesions, lipomas, improved hearing, or lesions. (Respondent's Exhibit A, page 4).

Pursuant to the above policy and guidelines, the MHP denied Appellant's request for ear reconstruction surgery in this case. As testified to by the MHP's witness, the request in this case only identified a cosmetic/appearance basis for the requested surgery and it is therefore non-covered.

Appellant bears the burden of proving by a preponderance of the evidence that the MHP erred in deciding to deny her request. Moreover, this Administrative Law Judge is limited to reviewing the MHP's decision in light of the information it had at the time it made that decision.

Docket No. 2014-36015 QHP
Decision and Order

Here, Appellant testified that she often suffers infections and swelling in her ear, and that its appearance is causing her emotional distress. Similarly, Appellant's request for hearing also provides that her ear swells when she wears earrings and that she is embarrassed when people see her ear.

However, that testimony is not reflected in the prior authorization request and documentation submitted to the MHP in this case. Instead, that request and documentation merely provide that Appellant is seeking ear surgery for cosmetic reasons and do not even attempt to demonstrate any medical necessity for the surgery.

Given the information available at the time the MHP made the disputed decision, the undersigned Administrative Law Judge finds that Appellant has failed to meet her burden of proving that the MHP erred. The above MPM policy clearly prohibits the MHP from covering elective cosmetic surgery and there has been no demonstration that the surgery is medically necessary or that it meets the specific guidelines outlined in the MHP's utilization guidelines.

To the extent Appellant has additional or updated information to provide regarding any medical necessity for the surgery, she is free to submit that information to the MHP as part of a new prior authorization request. With respect to the denial at issue in this case, however, the MHP's decision must be affirmed given the information available at the time,

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 prior authorization request for ear reconstruction surgery.

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 [REDACTED]

Docket No. 2014-36015 QHP
Decision and Order

CC:



***** 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.