STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF COMMUNITY HEALTH
P.O. Box 30763, Lansing, MI 48909
(517) 335-2484; Fax: (517) 373-4147

IN THE MATTER OF:

Docket No. 14-015150 HMS

[redacted]

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 Appellant's request for a hearing.

After due notice, a hearing was held on [redacted]. Appellant appeared and testified on her own behalf. [redacted] Inquiry Dispute Appeal Resolution Coordinator, represented [redacted], the Respondent Medicaid Health Plan (MHP). [redacted], Medical Director at the MHP, testified as a witness for Respondent.

ISSUE

Did the MHP properly deny Appellant's prior authorization request for orthopedic footwear?

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 [redacted] year-old female enrolled with the Respondent MHP. (Respondent's Exhibit A, page 5).

2. On or about [redacted] the MHP received a prior authorization request submitted on behalf of Appellant and requesting orthopedic footwear. (Respondent's Exhibit A, pages 5-6).

3. The request and the prescription attached to the request indicated that Appellant has been diagnosed with pes planus (flat foot). (Respondent's Exhibit A, pages 5-6).

4. On [redacted], the MHP sent written notice that the request for orthopedic footwear was denied. (Respondent's Exhibit A, pages 10-13).

5. Specifically, the notice stated that the request was being denied based on Michigan Department of Community Health criteria and that:

> The Michigan Department of Community Health Medicaid Provider Manual 2.24 Orthopedic Footwear guideline Standards of Coverage requires documentation (notes) showing the orthopedic footwear is needed: 1) because one leg is shorter than the other by 1/4 inch or greater or one foot show size is different by one size or greater, 2) because of a partial artificial (not real) foot, club foot (foot twisted), or plantar fasciitis (pain in heel of the foot), or 3) the member has a brace and needs extra depth in shoe for the brace. The information sent shows that the member has flat feet, however there is no documentation to show that one leg is shorter than the other, a partial artificial foot, clubfoot, plantar fasciitis or a need for extra show depth for a brace, therefore not meeting criteria guidelines.

Respondent's Exhibit A, page 10

6. On [redacted], the Michigan Administrative Hearing System (MAHS) received the Request for Hearing filed by Appellant in this matter. (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.
>
> *Medicaid Provider Manual, October 1, 2014 version*
> *Medicaid Health Plan Chapter, page 1*
> *(Emphasis added by ALJ)*

As stated above, a MHP "must operate consistent with all applicable Medicaid Provider Manuals and publications for coverages and limitations." Here, the pertinent section of the applicable version of the Michigan Medicaid Provider Manual (MPM) states:

> **2.24 ORTHOPEDIC FOOTWEAR**
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> | | |
> |---|---|
> | **Definition** | Orthopedic footwear may include, but are not limited to, orthopedic shoes, surgical boots, removable inserts, Thomas heels, and lifts. |
> | **Standards of Coverage** | **Orthopedic shoes and inserts** may be covered if any of the following applies:

▪ Required to accommodate a leg length discrepancy of ¼ inch |

	or greater or a size discrepancy between both feet of one size or greater. ▪ Required to accommodate needs related to a partial foot prosthesis, clubfoot, or plantar fasciitis. ▪ Required to accommodate a brace (extra depth only are covered). **Surgical Boots or Shoes** may be covered to facilitate healing following foot surgery, trauma or a fracture.
Noncovered Items	Shoes and inserts are noncovered for the conditions of: ▪ Pes Planus or Talipes Planus (flat foot) ▪ Adductus metatarsus ▪ Calcaneus Valgus ▪ Hallux Valgus Standard shoes are also noncovered.
Documentation	Documentation must be less than 60 days old and include the following: ▪ Diagnosis/medical condition related to the service requested. ▪ Medical reasons for specific shoe type and/or modification. ▪ Functional need of the beneficiary. ▪ Reason for replacement, such as growth or medical change.

	CSHCS requires a prescription from an appropriate pediatric subspecialist.
PA Requirements	PA is not required for the following items if the Standards of Coverage are met: ▪ Surgical boots or shoes. ▪ Shoe modifications, such as lifts, heel wedges, or metatarsal bar wedges up to established quantity limits. ▪ Orthopedic shoe to accommodate a brace. ▪ Orthopedic shoes and inserts when the following medical conditions are present: > Plantar Fascial Fibromatosis > Unequal Leg Length (Acquired) > Talipes Equinovarus (Clubfoot) > Longitudinal Deficiency of Lower Limb, Not Elsewhere Classified > Unilateral, without Mention of Complication (Partial Foot Amputation) > Unilateral, Complicated (Partial Foot Amputation) > Bilateral, without Mention of Complication (Partial Foot Amputation) > Bilateral, Complicated (Partial Foot Amputation)

	PA is required for: ▪ All other medical conditions related to the need for orthopedic shoes and inserts not listed above. ▪ All orthopedic shoes and inserts if established quantity limits are exceeded. ▪ Medical need beyond the Standards of Care. ▪ Beneficiaries under the age of 21, replacement within six months. ▪ Beneficiaries over the age of 21, replacement within one year.
Payment Rules	These are **purchase only** items.

MPM, October 1, 2014 version
Medical Supplier Chapter, pages 50-51

Here, Respondent's witness testified that Appellant's prior authorization request was denied pursuant to the above policies. Specifically, he noted that the MPM only provides coverage for orthopedic footwear in certain circumstances and that there is no documentation or evidence suggesting that Appellant meets the applicable criteria in this case.

In response, Appellant testified that she needs the orthopedic footwear as she is in constant pain due to her health problems.

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

In this case, 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 proof and that the decision to deny the prior authorization request

must therefore be affirmed. It is undisputed that the only diagnosis identified in the prior authorization request and prescription is a diagnosis of pes planus and the MPM expressly states that shoes and inserts are not covered for that condition. Similarly, there was no evidence or information submitted along with the request that suggest that any of the factors identified in the MPM are present. As indicated above, foot orthotics are only covered if required to accommodate a leg length discrepancy of 1/4 inch or greater or a size discrepancy between both feet of one size or greater, required to accommodate needs related to a partial foot prosthesis, clubfoot, or plantar fasciitis, or required to accommodate a brace (extra depth only are covered).

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 orthopedic footwear.

IT IS THEREFORE ORDERED that:

The Respondent's decision is **AFFIRMED**.

Steven Kibit

Steven Kibit
Administrative Law Judge
for Nick Lyon, 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.