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. 14-017781 MHP

[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 hearing.

After due notice, a telephone hearing was held on [redacted]. Appellant appeared and testified on his own behalf. [redacted], Grievance Coordinator, represented [redacted], the Respondent Medicaid Health Plan (MHP). [redacted], the MHP's Medical Director, also testified as a witness for the Respondent. [redacted] was present during the hearing as an observer, but did not participate.

ISSUE

Did the MHP properly deny Appellant's prior authorization request for hip replacement 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. On or about [redacted], the MHP received a prior authorization request for hip replacement surgery submitted on Appellant's behalf. (Testimony of Appellant; Testimony of [redacted]).

2. No documentation regarding previous attempts at more conservative treatments or any x-rays taken of Appellant's hip were submitted along with the request. (Testimony of [redacted]).

3. The MHP reviewed the prior authorization request under applicable InterQual Guidelines and found that Appellant did not meet the criteria for the surgery given the lack of documentation regarding x-rays or conservative treatment. (Testimony of [redacted]).

4. On or about [redacted], the MHP sent Appellant written notice that the request for hip replacement surgery was denied on the basis that there was insufficient information to justify medical necessity. (Testimony of [redacted]; Testimony of [redacted]

5. On [redacted], Appellant requested a Local Appeal with the MHP. (Testimony of [redacted].

6. On [redacted], the MHP denied Appellant's Local Appeal and upheld its original decision. (Testimony of [redacted].

7. On [redacted], the Michigan Administrative Hearing System (MAHS) received the request for hearing filed in this matter. (Exhibit 1, page 1).

8. After the appeal was filed, Appellant submitted additional information to the MHP, including documentation demonstrating that conservative treatment for his hip has been tried and was unsuccessful. (Testimony of Appellant; Testimony of [redacted]

9. No documentation regarding x-rays or official imaging reports has been submitted. (Testimony of [redacted]

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.

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

Here, the MHP's witness testified that, pursuant to the authority granted under both its contract with the Department and the above language of the MPM, the MHP has adopted prior authorization requirements and utilization management review criteria. Specifically, the MHP uses InterQual Guidelines and, with respect to hip replacements, those guidelines require, among other things, that the beneficiary have "Arthritis at hip by x-ray" and continued symptoms or findings after conservative treatments such as NSAIDS or acetaminophen, for at least [redacted] weeks; home exercises or physical therapy, for at least [redacted] weeks; and activity medication, for at least [redacted] weeks.

The MHP's witness also testified that the denial in this case was based on those guidelines. Specifically, he noted that the prior authorization request failed to attach any documentation regarding previous attempts at more conservative treatments; the success or failure of such treatments; or any x-rays taken of Appellant's hip.

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

In this case, Appellant appears to acknowledge that the prior authorization request failed to provide the required information. However, he also testified that x-rays have been taken of his hip and that conservative treatments have been tried without success.

To the extent Appellant has additional or updated information to regarding his medical conditions or the treatment of those conditions, he is free to have his doctor resubmit the request for hip replacement, along with all the relevant documents and information. Moreover, it actually appears that Appellant has already begun to do so as, after the appeal was filed, he submitted additional information to the MHP demonstrating unsuccessful conservative treatments and the MHP's witness confirmed that Appellant has now met that part of the criteria.

Nevertheless, regardless of what happens in the future, 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 that decision was made and, in this case, the MHP's actions must be affirmed given the available information.

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 home physician visits.

IT IS THEREFORE ORDERED that:

The Medicaid Health Plan'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 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.