

**STATE OF MICHIGAN  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
FOR THE DEPARTMENT OF HEALTH AND HUMAN SERVICES**

P.O. Box 30763, Lansing, MI 48909  
(517) 335-3997; Fax: (517) 373-4147

**IN THE MATTER OF:**

██████████,

Appellant

**Docket No.** 15-000971 MHP  
**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 Appellant's request for hearing.

After due notice, a hearing was held on ██████████. Appellant appeared and testified on his own behalf.

██████████ exler, General Counsel, appeared on behalf of the Medical Health Plan (MHP)-Respondent ██████████, subcontractor with the Michigan Department of Community Health (MDCH or DCH). Witnesses on behalf the MHP include ██████████, Pharmacy Director, and Dr. ██████████, M.D.

**ISSUE**

Did the MHP properly deny Appellant's prior authorization (PA) request for a Viekira Pak combined with Ribaviarin as a medication therapy?

**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 enrolled in the Respondent MHP. (Testimony).
2. On or about ██████████, the MHP received a prior authorization request submitted on behalf of Appellant by a Dr. ██████████ requesting Viekira Pak and Ribavirin for chronic Hepatitis C. (Exhibit A; Testimony).
3. The MHP reviewed the request and determined that it should be denied as the medication therapy requested is not a covered medication under the Michigan Medicaid medication formulary.
4. On ██████████, the MHP sent Appellant and his doctor written notice that the prior authorization request was denied on the grounds that the requested medication is not a covered benefit.

██████████  
**Docket No. 15-000971 MHP**  
**Decision and Order**

5. On ██████████, the Michigan Administrative Hearing System (MAHS) received the request for hearing filed in this matter.
6. The record in this matter was held open from the date of hearing until ██████████ for the submission of supporting documentation by the MHP. Appellant did not file a response and the record closed on ██████████.

## **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

**Docket No. 15-000971 MHP**  
**Decision and Order**

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, January 1, 2015 version  
Medicaid Health Plan Chapter, page 1  
(Emphasis added by ALJ)*

Here, pursuant to its contract with the Department and the above policy, the MHP is allowed to have a drug management program that includes a drug formulary. Moreover, as testified to by the MHP's witness, the MHP reviews prior authorization requests for medications under the Michigan Medicaid medication formulary/ Michigan Pharmaceutical Product List (MPPL).

Here, Viekira Pak combined with Ribavirin is not on the State of Michigan's Drug Formulary. (Exhibit B). The MHP here does not dispute that it is a treatment for chronic Hepatitis C, and moreover, that the "MDCH's non-coverage of Viekira Pak prevents the treatment of Appellant's condition." (██████████ MHP Cover Letter to Attached Exhibits A-E). However, the MHP's contract with the MDCH excludes coverage of drugs that are not on the formulary. State law allows an MHP to exclude non-formulary drugs. MCL 500.3571.

Given the above policy and evidence, Appellant has failed to satisfy his burden of proving by a preponderance of the evidence that the MHP erred in denying his prior authorization request for Viekira Pak and Ribavirin. The requested medication is not included on the applicable formulary and is therefore not covered.

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**Docket No. 15-000971 MHP**  
**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 prior authorization request for the drugs Viekira Pak and Ribavirin.

**IT IS THEREFORE ORDERED** that:

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

  
\_\_\_\_\_  
Janice Spodarek  
Administrative Law Judge  
for Director, Nick Lyon  
Michigan Department of Health and Human Services

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

JS/ [REDACTED]

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.