

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

P.O. Box 30763, Lansing, MI 48909
(517) 335-2484; Fax: (517) 373-4147

IN THE MATTER OF:

██████████

Appellant

Docket No. 15-007006 MHP

██████████

██████████

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 ██████████. Appellant appeared and testified on her own behalf. ██████████, paralegal, represented ██████████, the Respondent Medicaid Health Plan (MHP). ██████████, Medical Director, and ██████████, attorney, were also present for the Respondent.

ISSUE

Did the MHP properly deny Appellant's prior authorization request for Harvoni 90-400 mg tablets?

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 female who has been diagnosed with chronic Hepatitis C and who is enrolled in the Respondent MHP. (Exhibit A, pages 7-8).
2. On or about ██████████, the MHP received a prior authorization request submitted on behalf of Appellant by her doctor and requesting Harvoni 90-400 mg tablets for Appellant. (Exhibit A, pages 7-18).
3. On ██████████, the MHP sent Appellant written notice that the prior authorization request was denied. (Exhibit A, pages 3-4).

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4. With respect to reason for the denial, the notice stated in part:

The request is denied based on the reason below:

The request does not meet the health plan's reason(s) for an exception to the Medicaid Preferred Drug List (PDL), also sometimes known as the formulary. Other medications are available on the Preferred Drug List that may work for you.

This medication is not a covered benefit under the member's pharmacy benefits package. This decision was made per the ██████████ & State Benefit Exclusions medication guideline.

Exhibit A, page 3

5. On ██████████, the Michigan Administrative Hearing System (MAHS) received the request for hearing filed in this matter. (Exhibit 1, page 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.

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

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

Similarly, the MHP's contract with the Department provides:

The Contract may have a prescription drug management program that includes a drug formulary. DCH may review the Contractor's formularies regularly, particularly if enrollee complaints regarding access of care have been filed regarding the formulary. The Contractor must have a process to approve physicians' requests to prescribe any medically appropriate drug that is covered under the Medicaid Pharmaceutical Product List (MPPL).

*Exhibit A, page 28
(Emphasis added)*

Pursuant to the above policy and its contract with the Department, the MHP has developed a drug management program that includes a drug formulary and provides that its covered services are subject to the limitations and restrictions described in the MHP's Medicaid agreement, the MPM, Medicaid bulletins, and other directives. (Exhibit A, page 24).

In this case specifically, the denial of the prior authorization request was based on the fact that Harvoni 90-400 mg tablets are not covered under either the MHP's drug formulary or the MPPL. (Exhibit A, pages 3-4, 19, 24).

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In response, Appellant testified that she now has Stage 4 liver disease and is going to die unless she receives the Harvoni. She also testified that it is the only drug that will make her better and that she could only get it through her [REDACTED] health plan. She further testified that she cannot understand why the state will not approve the medication and feels that she is being judged because she is on Medicaid.

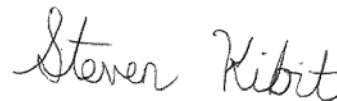
However, given the above policy and evidence, Appellant has failed to satisfy her burden of proving by a preponderance of the evidence that the MHP erred in denying the prior authorization request for the drug Harvoni. The requested medication is not included on the MHP's formulary or the [REDACTED] MPPL. Accordingly, the Harvoni 90-400 mg tablets did not meet the coverage criteria under policy and it could not be approved for Medicaid coverage.

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 Harvoni 90-400 mg tablets.

IT IS THEREFORE ORDERED that:

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



Steven Kibit
Administrative Law Judge
for Director, Nick Lyon

Michigan Department of Health and Human Services

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.