

**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:

Docket No. 15-014432 MHP

██████████

Case No. ██████████

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.*, following the Appellant's request for a hearing.

After due notice, a hearing was held on ██████████

Appellant appeared and testified.

██████████, Grievance and Appeal lead, represented and testified on behalf of the Respondent-Subcontractor, Priority Health Choice (MHP). Respondent is a Medical Health Plan subcontractor with the Michigan Department of Health and Human Services (MDHHS).

ISSUE

Did the MHP properly deny the Appellant's prior authorization (PA) request for Copaxone?

FINDINGS OF FACT

Based on the competent, material, and substantial evidence presented, the Administrative Law Judge finds as material fact:

1. Appellant is a ██████████ Medicaid beneficiary. Appellant is enrolled with Priority Health Choice of Michigan, the Respondent MHP herein. (Exhibit A; Testimony).
2. On ██████████ the MHP received a Prior Authorization (PA) request from Appellant's physician for Copaxone 20 mg/ml syringe. (Exhibit A.9; 11-15).
3. Appellant's diagnosis is listed as MS and fibromyalgia. (Exhibit A.9; 11-15).

4. Copaxone is not on the MDHHS Drug Formulary. (Exhibit A.23).
5. On ██████████ the MHP issued a denial for the Copaxone 20 mg/mL subcutaneous syringe on the grounds that the drug is not a listed drug on the drug formulary, and, that an exception review did not show that the drug is medically necessary. (Exhibit A.17-18).
6. On ██████████ the Appellant filed a Request for Hearing with the Michigan Administrative Hearing System (MAHS). (Exhibit A.4).

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.

On May 30, 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 MHPs.

The Respondent is one of those MHPs.

The covered services that the Contractor has available for enrollees must include, at a minimum, certain services identified in the Medicaid Provider Manual and the MHP's contract with the MDHHS. The Contractor may limit services to those which are medically necessary and appropriate, and which conform to professionally accepted standards of care but may not arbitrarily deny or reduce the amount, duration, or scope of a required service solely because of the diagnosis, type of illness, or condition of an enrollee.

The Contractor must operate consistent with all applicable Medicaid provider manuals and publications for coverages and limitations. If new services are added to the Michigan Medicaid Program, or if services are expanded, eliminated, or otherwise changed, the Contractor must implement the changes consistent with State direction in accordance with the provisions of Contract Section 2.024.

Although the Contractor must provide the full range of covered services that are identified in the MPM and its contract, they may choose to provide services over and above those specified.

Here, the MHP noted that Appellant was enrolled as a member with it at the time of the request for services. The MHP Member Handbook and Certificate of Coverage were

sent to Appellant at the time of enrollment. The Member Handbook outlines coverage limitations, prior authorization requirements, limitations and exclusions, and the pharmacy guidelines. (Exhibit A.24-30).

Specific to the case here, the Member Handbook and Certificate of Coverage outlines in ¶ 26 outpatient prescription drugs. This sections states that if there is a general, the MHP will issue the generic.

Here, the MHP indicated that the generic alternative-Glatopa, with a 7days a week injection-is a suitable substitute for Appellant.

Appellant argues that the generic is not an adequate alternative as it requires an injection rate of 7 days rather than her prior use of the generic, where she injected the drug less frequently.

In response, MHP indicated that Appellant's physician did not indicate the reason for not prescribing the generic. Under the exception procedures, the medical evidence submitted on behalf of Appellant does not show that she meets the exception guidelines.

After a careful review of the credible and substantial evidence of the whole record, this ALJ finds that based on the evidence here, Appellant has not met her burden of proof to show that the MHP erred in denying the non-general drug, Copaxone. As this drug is not on the MDHHS drug formulary, and, as the evidence does not support finding an exception, the denial must be upheld.

In addition, the Department is under strict federal mandates to ensure that the evidence in a beneficiary's file is supported by necessary verifications. If not, the State of Michigan may be subject to substantial financial penalties. 42 CFR 435.914.

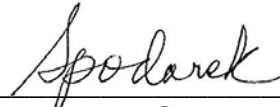
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DECISION AND ORDER

Based on the above findings of fact and conclusions of law, the Administrative Law Judge finds that the MHP's denial of the Appellant's request for the drug Copaxone was proper based on the available evidence.

IT IS THEREFORE ORDERED that:

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



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

Date Mailed: [REDACTED]

[REDACTED]

[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.