

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. 15-015680 MHP

██████████

██████████

██████████

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 ██████████ ██████████ Appellant's son, appeared and testified on Appellant's behalf. ██████████ Appellant's husband, also testified as a witness for Appellant, with Appellant's representative acting as his interpreter. ██████████ Assistant General Counsel, appeared on behalf of ██████████, the Respondent Medicaid Health Plan (MHP). ██████████, Manager of Specialty Pharmacy, testified as a witness for the MHP.

ISSUE

Did the MHP properly deny Appellant's prior authorization request for the medication Ribavirin?

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 Medicaid beneficiary who is enrolled in the Respondent MHP. (Exhibit A, page 5).
2. Appellant has been diagnosed with chronic Hepatitis C. (Exhibit A, page 5).
3. On or about ██████████, the MHP received a prior authorization request submitted on Appellant's behalf and asking that the medication Ribavirin be approved for treatment of Appellant's Hepatitis C. (Exhibit A, page 5).

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4. The supporting medical documentation that was provided along with that request, including a Computed Tomography (CT) scan of Appellant's liver, provided that Appellant's Hepatitis C was chronic, but that there was no evidence of cirrhosis or hepatic steatosis. (Exhibit A, pages 6-15).
5. On ██████████ the MHP sent Appellant and her medical provider written notice that the prior authorization request was denied. (Exhibit A, pages 16-30).
6. Specifically, the notice of denial sent to Appellant provided:

The reason for this action is the clinical information submitted does not support the ██████████ use of the ██████████ formulary medication(s).

A ██████████ pharmacist has reviewed the documentation submitted with the request and determined that it does not meet the ██████████ n ██████████ (MHP) coverage criteria. There is no evidence of chronic hepatitis with a Metavir score greater than or equal to 4 or equivalent. Per MHP Approval Criteria for Ribavirin, there must be evidence of chronic hepatitis with a Metavir score greater than or equal to 4 or equivalent. Please discuss your plan of care with your physician.

Exhibit A, page 17

7. On ██████████, Appellant filed a local appeal with respect to the denial. (Exhibit A, page 35).
8. On ██████████, the MHP issued a letter upholding its earlier decision. (Exhibit A, page 35).
9. On ██████████, the Michigan Administrative Hearing System (MAHS) received the request for hearing filed in this matter regarding the denial of the prior authorization request for Ribavirin. (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 statutes, the Social Welfare Act, the Administrative Code, and the State Plan under Title XIX of the Social Security Act Medical Assistance Program.

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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, July 1, 2015 version
Medicaid Health Plan Chapter, page
(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 review criteria. Moreover, with respect to Ribavirin, that criteria requires that Appellant have, among other things: "Evidence of chronic hepatitis with a Metavir score ≥ 4 or equivalent." (Exhibit A, page 85).

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Here, while Appellant has been diagnosed with chronic hepatitis, the MHP denied the prior authorization request for Ribavirin on the basis that Appellant did not have a Metavir score ≥ 4 or equivalent as required. In support of the decision, its witness also testified that a Metavir score ≥ 4 or equivalent in this case would mean that Appellant has cirrhosis of the liver, but that documentation submitted along with the request expressly provided multiple times that there was no evidence of cirrhosis.

In response, Appellant's witnesses testified that Appellant is getting sicker as time goes on and that her doctor said that this was the only treatment for her.

Appellant bears the burden of proving by a preponderance of the evidence that the MHP erred in denying her prior authorization request.

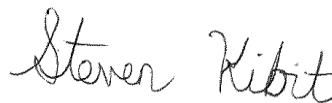
Given the record in this case, the undersigned Administrative Law Judge finds that Appellant has failed to meet that burden of proof and that the MHP's decision must therefore be affirmed. The MHP is permitted by Department policy and its contract to develop a drug formulary and review criteria. It has done so and, pursuant to the applicable review criteria, Appellant does not meet the requirements for Ribavirin. At most, Appellant's witnesses testified that Appellant's doctor prescribed the Ribavirin for Appellant and, while their testimony is undisputed, it is also insufficient to demonstrate that the Appellant met the specific review criteria for the medication or that the MHP erred.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the MHP properly denied the prior authorization request for Ribavirin.

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: _____

Date Mailed: _____

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SK/db

cc: [REDACTED]
[REDACTED]
[REDACTED]
[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.