

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
P.O. Box 30763, Lansing, MI 48909
(517) 373-0722; Fax: (517) 373-4147

IN THE MATTER OF:

MAHS Docket No. 15-018318 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 a request for hearing filed on the minor Appellant's behalf.

After due notice, a telephone hearing was held on ██████████ ██████████ and ██████████, Appellant's grandparents/adoptive parents, appeared and testified on Appellant's behalf. ██████████, Appellant's case manager at ██████████ ██████████ ██████████, was also present for Appellant. ██████████, Leader of Grievance and Appeal Team, appeared and testified on behalf of ██████████, the Respondent Medicaid Health Plan (MHP).

ISSUE

Did the MHP properly deny Appellant's request for custom shoe inserts?

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 11).
2. On or about ██████████, the MHP received a prior authorization request submitted on Appellant's behalf from ██████████ ██████████ ██████████ ██████████ and asking for custom shoe inserts for Appellant. (Exhibit A, pages 8-14).
3. In that request and its supporting documentation, it was stated that Appellant has been diagnosed with equinus deformity of foot, acquired; abnormality of gait; and pes planovalgus, congenital. (Exhibit A, pages 9, 11).

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4. On ██████████, the MHP sent Appellant's representatives written notice that the prior authorization request was denied. (Exhibit A, pages 5-6).
5. Specifically, the notice of denial sent to Appellant provided:

Based on the information provided, we are unable to approve this request.

Information reviewed by us shows that you have diagnoses of equinus deformity of foot, abnormal gait and pes planovalgus which are not one of the covered conditions below. Therefore, we are unable to approve this request for custom shoe inserts.

This decision is based on the medical director review of information submitted by your doctor and the ██████████ Medical Policy No. 91420-R12 Orthotics: Shoe Inserts, Orthopedic Shoes. This policy states under Section II, Coverage for Medicaid Members, Orthopedic shoes and inserts may be covered if any of the following applies:

1. Required to accommodate leg length discrepancy of 1/4 inch or greater or a size discrepancy between both feet of one size or greater
2. Required to accommodate needs related to a partial foot prosthesis, clubfoot, or plantar fasciitis
3. Required to accommodate a brace

Exhibit A, page 5

6. On ██████████, the Michigan Administrative Hearing System (MAHS) received the request for hearing filed in this matter. (Exhibit 1, pages 1-4).
7. In that request, Appellant's representatives indicate that the MHP was given the wrong diagnosis codes. (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.

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)*

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Pursuant to the above policy and its contract with the Department, the MHP has developed prior authorization requirements and utilization management and review criteria. With respect to shoe inserts, the MHP's policies specifically provide:

II. COVERAGE FOR MEDICAID MEMBERS

Priority Health provides benefits for Medicaid members for diabetic and orthopedic shoes, inserts, and/or modifications for individuals who have medical conditions that would require such. The member must have a written prescription from a physician with the diagnosis/medical condition and the reason for the specific shoe type and/or modification.

MEDICAID BENEFIT LANGUAGE

* * *

Orthopedic shoes and inserts may be covered if *any* of the following applies:

- Required to accommodate a leg length discrepancy of ¼ inch or greater or a size discrepancy between both feet or one size or greater.
- Required to accommodate needs related to a partial foot prosthesis, clubfoot, or plantar fasciitis
- Required to accommodate a brace (extra depth only are covered)

Exhibit A, pages 20-21

The MHP's prior authorization requirements and utilization review criteria also track the Department's policy found in the Medicaid Provider Manual (MPM):

2.24 ORTHOPEDIC FOOTWEAR

Definition	Orthopedic footwear may include, but are not limited to, orthopedic shoes, surgical boots, removable inserts, Thomas heels, and lifts.
Standards of Coverage	Orthopedic shoes and inserts may be covered if any of the following applies:

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	<ul style="list-style-type: none"> ▪ Required to accommodate a leg length discrepancy of ¼ inch or greater or a size discrepancy between both feet of one size or greater. ▪ Required to accommodate needs related to a partial foot prosthesis, clubfoot, or plantar fasciitis. ▪ Required to accommodate a brace (extra depth only are covered). <p>Surgical Boots or Shoes may be covered to facilitate healing following foot surgery, trauma or a fracture.</p>
Noncovered Items	<p>Shoes and inserts are noncovered for the conditions of:</p> <ul style="list-style-type: none"> ▪ Pes Planus or Talipes Planus (flat foot) ▪ Adductus metatarsus ▪ Calcaneus Valgus ▪ Hallux Valgus <p>Standard shoes are also noncovered.</p>
Documentation	<p>Documentation must be less than 60 days old and include the following:</p> <ul style="list-style-type: none"> ▪ Diagnosis/medical condition related to the service requested. ▪ Medical reasons for specific shoe type and/or modification. ▪ Functional need of the beneficiary.

	<ul style="list-style-type: none"> ▪ Reason for replacement, such as growth or medical change. <p>CSHCS requires a prescription from an appropriate pediatric subspecialist.</p>
<p>PA Requirements</p>	<p>PA is not required for the following items if the Standards of Coverage are met:</p> <ul style="list-style-type: none"> ▪ Surgical boots or shoes. ▪ Shoe modifications, such as lifts, heel wedges, or metatarsal bar wedges up to established quantity limits. ▪ Orthopedic shoe to accommodate a brace.
	<ul style="list-style-type: none"> ▪ Orthopedic shoes and inserts when the following medical conditions are present: <ul style="list-style-type: none"> ➤ Plantar Fascial Fibromatosis ➤ Unequal Leg Length (Acquired) ➤ Talipes Equinovarus (Clubfoot) ➤ Longitudinal Deficiency of Lower Limb, Not Elsewhere Classified ➤ Unilateral, without Mention of Complication (Partial Foot Amputation) ➤ Unilateral, Complicated (Partial Foot Amputation) ➤ Bilateral, without Mention of Complication (Partial Foot Amputation)

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	➤ Bilateral, Complicated (Partial Foot Amputation)
	<p>PA is required for:</p> <ul style="list-style-type: none"> ▪ All other medical conditions related to the need for orthopedic shoes and inserts not listed above. ▪ All orthopedic shoes and inserts if established quantity limits are exceeded. ▪ Medical need beyond the Standards of Care. ▪ Beneficiaries under the age of 21, replacement within six months. ▪ Beneficiaries over the age of 21, replacement within one year.
Payment Rules	These are purchase only items.

*MPM, July 1, 2015 version
 Medical Supplier Chapter, pages 54-55*

Pursuant to the above policies, the MHP denied Appellant’s prior authorization request for a custom show inserts in this case. Specifically, the notice of denial provided and the MHP’s witness testified that custom show inserts are only covered for Medicaid beneficiaries under the MPM or Appellant’s subscriber contract if they are required to accommodate leg length discrepancy of 1/4 inch or greater or a size discrepancy between both feet of one size or greater; required to accommodate needs related to a partial foot prosthesis, clubfoot, or plantar fasciitis; or required to accommodate a brace. The notice of denial and the MHP’s witness also stated in this case that, given the information submitted along with the prior authorization request and the diagnoses identified, none of the above circumstances applied in this case and the request had to be denied.

In response, Appellant’s representatives testified that Appellant has received custom shoe inserts before, though they are not sure through whom, and that the prior authorization request in this case identified incorrect diagnosis codes. They further testified that, after receiving the denial, they contacted Appellant’s surgeon and had the surgeon contact [REDACTED] in an attempt to have the codes corrected, but they do not know what happened after that.

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Appellant bears the burden of proving by a preponderance of the evidence that the Department erred in denying the request for custom shoe inserts. Moreover, the undersigned Administrative Law Judge is limited to reviewing the MHP's decision in light of the information available at the time the decision was made.

Given the record in this case, the undersigned Administrative Law Judge finds that Appellant has failed to meet his burden of proof and that the MHP's decision must therefore be affirmed. The request in this case was for a custom shoe inserts and such items are only covered through the MHP in certain circumstances, none of which applied here. Moreover, while the Appellant's representatives assert that the information provided along with the prior authorization request was incorrect and that the custom shoe inserts would be covered if the correct information was provided, their testimony is unsupported and, more importantly, the MHP can only base its decision in the information submitted to it by Appellant's medical provider.

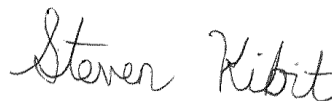
To the extent, Appellant's representatives have new or updated information to provide, they can always have a new prior authorization request submitted with the corrected diagnoses. With respect to the denial at issue in this case however, the MHP's decision must be affirmed given the information that was submitted to it and the applicable policies.

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 custom shoe inserts.

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]

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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.