

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. 15-018823 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 appeared and testified on his own behalf. ██████████, Appeals Coordinator, appeared and testified on behalf of ██████████ the Respondent Medicaid Health Plan (MHP).

ISSUE

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

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 Medicaid beneficiary enrolled in the Respondent MHP. (Undisputed testimony).
2. On or about ██████████, the MHP received a prior authorization request submitted on behalf of Appellant by his doctor and requesting the medication Harvoni for treatment of Appellant's Hepatitis C. (Undisputed testimony).
3. On ██████████, the MHP sent Appellant written notice that the prior authorization request was denied. (Exhibit A, page 3).
4. With respect to reason for the denial, the notice stated in part:

The medication that was requested for you was Harvoni. According to the Medical Service

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Administration (MSA), a division of the Michigan Department of Community Health (MDCH), the medication is not a covered benefit under Michigan Medicaid. As a result this request has not been approved. Please contact your doctor to discuss alternatives

Exhibit A, page 3

5. That same day, the MHP sent a similar notice of denial to Appellant's doctor, in which it also noted that a full formulary list of the medications approved for coverage under Michigan Medicaid is available of the Michigan Department of Community Health's website. (Exhibit A, page 4).
6. On ██████████, the Michigan Administrative Hearing System (MAHS) received the request for hearing filed in this matter. (Exhibit A, page 8).

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

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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 1
(Emphasis added by ALJ)*

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, among other things, that its covered services are subject to the limitations and restrictions for appropriate drugs that are covered under the Medicaid Pharmaceutical Product List (MPPL) published by the Department.

In this case specifically, as provided in the denial notices and credibly testified to by the MHP's witness, the denial of the prior authorization request was based on the fact that Harvoni is not covered under either the MHP's drug formulary or the MPPL.

In response, Appellant testified that his Hepatitis C is slowly killing off his liver and that it is the medication prescribed by his doctor as the one needed. He also testified that he did not understand the notice of denial in sent to him. He further noted that he is raising [REDACTED] kids on his own.

However, while the undersigned Administrative Law Judge sympathizes with Appellant, given the above policy, Appellant has failed to satisfy his burden of proving by a preponderance of the evidence that the MHP erred in denying the prior authorization request for the medication Harvoni. The requested medication is not included on the MHP's formulary or the State of Michigan's MPPL. Accordingly, Harvoni did not meet the coverage criteria under policy and it could not be approved for Medicaid coverage.

[REDACTED]
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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.

IT IS THEREFORE ORDERED that:

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

Steven Kibit

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]
[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.