

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

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IN THE MATTER OF:

██████████

Appellant

_____ /

Docket No. 15-020191 MHP
Case No. ██████████

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 42 CFR 431.200 *et seq.*, upon Appellant's request for hearing.

After due notice, a hearing was held on ██████████. Appellant appeared and testified on his own behalf. Attorney ██████████, Assistant General Counsel, represented Meridian Health Plan, the Respondent Medicaid Health Plan (MHP). ██████████, Manager, ██████████, appeared as a witness.

ISSUE

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

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, born ██████████, who has been diagnosed with Central Serous Retinopathy OS and who is enrolled in the Respondent MHP. (Exhibit A, p 11; Testimony).
2. On or about ██████████, the MHP received a prior authorization request submitted on behalf of Appellant by his doctor requesting the medication Visudyne. (Exhibit A, pp 5-9; Testimony).
3. On ██████████, the MHP sent Appellant written notice that the prior authorization request was denied because the documentation submitted with the request did not support the MHP's policy for medical necessity for the use of the medication. (Exhibit A, pp 10-24; Testimony).

4. On ██████████, the MHP sent Appellant's doctor a request for further information to support the off-label use of Visudyne for Appellant's condition. The MHP received no further information from Appellant's doctor as of the date of the hearing. (Exhibit A, p 27; Testimony).
5. On ██████████, the Michigan Administrative Hearing System (MAHS) received Appellant's request for hearing. (Exhibit 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 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 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 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, pp 33-48).

In this case, the denial of the prior authorization request was based on the fact that Visudyne is not FDA approved for Appellant's condition, Central Serous Retinopathy. The MHP's witness indicated that he did request additional information from Appellant's physician to support the request, but that nothing had been received as of the date of the hearing.

Appellant testified that he was hoping the MHP would reconsider because he is afraid he will lose his eye if this treatment is not approved. Appellant also indicated that he is afraid the condition could spread to his other eye without this treatment. Appellant indicated that he understood that the use might be experimental, but that his doctor believes that it would be successful for him.

In response, the MHP's witness indicated that he would be happy to reach out to Appellant's provider again to try to obtain information to support the off-label use of Visudyne. Appellant agreed to also contact his doctor regarding the needed information.

Given the above policy and evidence, 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 drug Visudyne. The requested medication is not FDA approved for Appellant's condition and Appellant's doctor did not submit documentation supporting the off-label use of the medication. Accordingly, Visudyne 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 Visudyne.

IT IS THEREFORE ORDERED that:

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



Robert J. Meade
Administrative Law Judge
for Nick Lyon, Director
Michigan Department of Health and
Human Services

Date Mailed: [REDACTED]

RJM/cg

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.