

**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. 15-020410 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 her own behalf. ████████████████████ 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 Coenzyme Q10 (CoQ10) 100 mg capsules?

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 6).
2. On or about ████████████████████, the MHP received a prior authorization request submitted on Appellant's behalf and asking that CoQ10 100 mg capsules be approved for treatment of Appellant's chronic daily headaches. (Exhibit A, page 6).
3. The request also indicated that Ibuprofen had been tried as treatment, but had failed. (Exhibit A, page 6).
4. The supporting documentation provided along with that request was a list of Appellant's allergies and medications. (Exhibit A, pages 7-9).

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5. On [REDACTED] the MHP sent Appellant written notice that the prior authorization request was denied. (Exhibit A, pages 10-15).
6. Specifically, the notice of denial sent to Appellant provided:

The reason for this action is the clinical information submitted does not support the [REDACTED] policy for [REDACTED] use of the medication(s) not included in the [REDACTED] formulary.

[REDACTED] has reviewed this request and determined that it does not meet [REDACTED] [REDACTED] (MHP) coverage criteria. CO Q-10 capsule is not a covered benefit on the [REDACTED] MHP Medicaid Formulary (MHP list of covered drugs). Please discuss with your physician an alternative medication on the MHP Formulary.

Exhibit A, page 11

7. On [REDACTED] Appellant filed a local appeal with respect to the denial. (Exhibit A, pages 25-26).
8. In that appeal, Appellant wrote that she cannot afford to pay for the medication on her own; both her primary care physician and her neurologist want it for her; and that the medication will help with her unusual headaches. (Exhibit A, pages 25-26).
9. The MHP subsequently issued a letter upholding its earlier decision. (Exhibit A, pages 28-29).
10. Specifically, its decision stated:

Coenzyme Q10 (Co Q10) is not on the formulary and is not being used for an FDA approved indication. There are other medications on the formulary that are used to treat and prevent headaches. There is no evidence that the request for Coenzyme Q10 (Co Q10) meets the criteria for MHP formulary exception; including an adequate trial and therapeutic failure of all formulary alternatives and [REDACTED] carved out medications and that it is used for FDA indications. MHP Formulary Exception Policy M50.04 requires a clinically adequate trial and therapeutic failure

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for all formulary alternatives and ██████ █
██████████ carved out medications and must be
for an FDA approved indication prior to review
for coverage of the non-formulary medication
request. MHP covers metoprolol and
propranolol. The ██████████ does cover
Amtriptyline, topiramate and valporic acid for
headache prevention. Please discuss your
plan of care with your physician.

Exhibit A, page 28

11. On ██████████ the Michigan Administrative Hearing System (MAHS) received the request for hearing filed in this matter. (Exhibit A, page 3).

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.)

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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, as testified to by Respondent's witness, the MHP review criteria further provides that a beneficiary must use the preferred medications on the formulary before any non-preferred medications and demonstrate a medical necessity for the non-preferred medications prior to them being approved.

The MHP's witness also testified that the denial in this case was based on those guidelines. Specifically, he noted that CoQ10 100 mg capsules are not on the MHP's formulary and that the prior authorization request in this case failed to identify the required trial and failure of all formulary alternatives prior to requesting the non-formulary medication.

In response, Appellant testified that she and her doctors have tried numerous other medications, but none worked and that both her primary care physician and her neurologist now want her to take the CoQ10 100 mg capsules. She also testified that her chronic daily headaches are so severe that she has had to go to the hospital for treatment.

Appellant bears the burden of proving by a preponderance of the evidence that the MHP erred in denying her request. 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 her burden of proof and that the MHP's decision must therefore be affirmed. While Appellant testified that she and her doctors have tried numerous other medications for treatment of her headaches and that all of the other

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medications have failed, her testimony is unsupported and the prior authorization submitted in the case only provides that one medication, Ibuprofen, has been tried without success. There has consequently been no showing that all formulary alternatives have been tried prior to requesting the non-formulary medication, as required by the applicable policies, and Appellant's request was properly denied given the information in the prior authorization request.

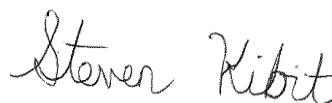
To the extent, Appellant has evidence regarding the trial and failure of other medications, she can always have a new prior authorization request submitted with the new and updated information. With respect to the denial at issue in this case however, the MHP's decision must be affirmed given the information 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 Appellant's prior authorization request.

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 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.