

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

P.O. Box 30763, Lansing, MI 48909
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IN THE MATTER OF:

Docket No. 15-020384 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. ██████████ Grievance and Appeal lead, ██████████ (MHP). Respondent is a Medical Health Plan subcontractor with the Michigan Department of Health and Human Services (MDHHS).

ISSUE

Did the MHP properly deny the Appellant's prior authorization (PA) request for Copaxone?

FINDINGS OF FACT

Based on the competent, material, and substantial evidence presented, the Administrative Law Judge finds as material fact:

1. Appellant is a █████ year-old female Medicaid beneficiary. Appellant is enrolled with MHP. (Exhibit A, pp 1, 12; Testimony)
2. On ██████████, the MHP received a Prior Authorization (PA) request from Appellant's physician for Copaxone 20 mg/ml syringe. (Exhibit A, pp 1, 10-14; Testimony)
3. Copaxone is not on the MDHHS Drug Formulary. (Exhibit A, p 22)
4. On ██████████ the MHP sent Appellant and the Appellant's physician written notice indicating the prior authorization request was denied as it is not listed on the drug formulary; a generic is available; other drugs are available that treat the conditions for which the Copaxone was being described and

the request did not indicate why either the generic or the other drugs available were unsuitable. (Exhibit A, pp 1, 16, 17; Testimony)

5. On ██████████, the Appellant filed a Request for Hearing with the Michigan Administrative Hearing System (MAHS). (Exhibit A, p 4)

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, January 1, 2015 version
Medicaid Health Plan Chapter, page 1
(Emphasis added by ALJ)*

Similarly, the MHP's contract with the Department provides:

The Contract may have a prescription drug management program that includes a drug formulary. DCH may review the Contractor's formularies regularly, particularly if enrollee complaints regarding access of care have been filed regarding the formulary. The Contractor must have a process to approve physicians' requests to prescribe any medically appropriate drug that is covered under the Medicaid Pharmaceutical Product List (MPPL).

*Exhibit A, page 28
(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 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.

Here, the MHP noted that Appellant was enrolled as a member with it at the time of the request for services. The MHP Member Handbook and Certificate of Coverage were sent to Appellant at the time of enrollment. The Member Handbook outlines coverage limitations, prior authorization requirements, limitations and exclusions, and the pharmacy guidelines.

Specific to the case here, the Member Handbook and Certificate of Coverage outlines in ¶ 26 outpatient prescription drugs. This sections states that if there is a general, the MHP will issue the generic.

Here, the MHP indicated that the generic alternative-Glatopa, is a suitable substitute for Appellant and that other drugs were available in their formulary that could treat the Appellant's conditions and that the Appellant's physician did not indicate why the other options were unsuitable.

Appellant argues that she specifically requested Copaxone because it was recommended to her by her physician as the best option for her to treat her conditions and one that presented the least amount of side effects and the least likely to cause harm if she were to become pregnant. The physician requesting the medication did not participate in the hearing and the Appellant did not submit medical literature to corroborate her claims.

Given the above policy and evidence, Appellant has failed to satisfy her burden of proving by a preponderance of the evidence that the MHP erred in denying the prior authorization request for the drug Copaxone. The requested medication is not included on the MHP's formulary and the Appellant did not show why it was medically necessary to make an exception.

DECISION AND ORDER

Based on the above findings of fact and conclusions of law, the Administrative Law Judge finds that the MHP's denial of the Appellant's request for the drug Copaxone was proper based on the available evidence.

IT IS THEREFORE ORDERED that:

The MHP's decision is **AFFIRMED**.



Corey A. Arendt
Administrative Law Judge
for Nick Lyon, Director
Michigan Department of Health and Human
Services

Date Signed: ██████████
Date Mailed: ██████████

CAA/db
cc: ██████████
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██████████

***** NOTICE *****

The Michigan Administrative Hearing System may 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 60 days of the mailing date of the Decision and Order or, if a timely request for rehearing was made, within 60 days of the mailing date of the rehearing decision.