

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

P.O. Box 30763, Lansing, MI 48909
(800) 648-3397; Fax: (517) 373-4147

IN THE MATTER OF:

Docket No. 15-021150 PA
Case No. [REDACTED]

[REDACTED]
Appellant
_____ /

DECISION AND ORDER

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

After due notice, a telephone hearing was held on [REDACTED]. Appellant appeared on her own behalf. [REDACTED] Appeals Review Officer, represented the Department of Health and Human Services (Department). [REDACTED], PACER Project Manager, appeared as a witness for the Department. [REDACTED] is contracted by the Department to conduct telephonic/electronic authorization of inpatient services (PACER), selected durable medical equipment and medical supplies (DME/MS), Ventilator Dependent Care Unit (VDCU) admissions and continued stays for Fee-For-Service Medicaid and Children's Special Health Care beneficiaries.

ISSUE

Did the Department properly deny Appellant's prior authorization request for Nepro 2 cans per day?

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 [REDACTED] year old (date of birth [REDACTED]) Medicaid beneficiary. (Exhibit C, p. 10)
2. On [REDACTED], [REDACTED] received a telephonic request from Appellant's physician's office requesting Nepro 2 cans (850 calories) per day for Appellant. The physician's office indicated: Appellant's total calorie need per day was 2,100 calories; Appellant has been instructed to adhere to a renal diet; Appellant had a diagnosis of end stage kidney disease and is on hemodialysis; Appellant weighed 132 pounds, was 5'4" tall, and had a BMI of 23.09; and Appellant was recently diagnosed with cancer and will be starting chemotherapy. (Exhibit B, p. 7)
3. The [REDACTED] physician reviewer contacted Appellant's physician, who indicated a concern that Appellant would not be able to meet her nutritional needs when

she starts chemotherapy. The physician reviewer denied the request for Nepro for Appellant at that time. Appellant's physician was to follow Appellant and advise if Appellant is unable to eat adequately or use other supplements. The physician's office was to call [REDACTED] if Appellant's status changes and a supplemental product was medically necessary. (Exhibit B, p. 7)

4. The nurse reviewer called Appellant's physician's office with the determination and stated the reconsideration process. No reconsideration request was received from the physician's office. (Exhibit B, pp. 7-8)
5. On [REDACTED], A Notification of Denial was mailed to Appellant indicating the request for Ensure was denied. (Exhibit C, p. 10)
6. On [REDACTED], Appellant's Request for Hearing was received by the Michigan Administrative Hearing System. (Exhibit D, p. 12)

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.

1.9 PRIOR AUTHORIZATION

Medicaid requires prior authorization (PA) to cover certain services before those services are rendered to the beneficiary. The purpose of PA is to review the medical need for certain services. . . .

Medicaid Provider Manual, (MPM) Practitioner,
October 1, 2015, page 4.

The Standards of Coverage for enteral nutrition for beneficiaries age 21 and over can be found in the Medical Supplier section of the Medicaid Provider Manual:

2.13.A. ENTERAL NUTRITION (ADMINISTERED ORALLY)

Standards of Coverage

For beneficiaries age 21 and over:

- The beneficiary must have a medical condition that requires the unique composition of the formula nutrients that the beneficiary is unable to obtain from food; or

- The nutritional composition of the formula represents an integral part of treatment of the specified diagnosis/medical condition; or
- The beneficiary has experienced significant weight loss.

For Healthcare Common Procedure Coding System (HCPCS) code B4157, the beneficiary must have a specified inherited disease of metabolism identified by the International Classification of Diseases (ICD).

Documentation

Documentation must be less than 30 days old and include:

- Specific diagnosis/medical condition related to the beneficiary's inability to take or eat food.
- Duration of need.
- Amount of calories needed per day.
- Current height and weight, as well as change over time. (For beneficiaries under 21, weight-to-height ratio.)
- Specific prescription identifying levels of individual nutrient(s) that is required in increased or restricted amounts.
- List of economic alternatives that have been tried.

For continued use beyond 3-6 months, the CHCS Program requires a report from a nutritionist or appropriate pediatric subspecialist.

PA Requirements

PA is required for all enteral formula for oral administration.

The following HCPCS codes require authorization via a telephone authorization process:

B4034 B4035 B4036 B4081 B4082 B4083
B4087 B4088 B4102 B4149 B4150 B4152
B4153 B4154 B4155 B4157 B4158 B4159
B4160 B4161 B4162 B9000 B9002 B9998

Refer to the Directory Appendix for Telephone Prior Authorization Contractor information.

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In the present case, the Department determined that that Appellant did not meet the standards of coverage for oral enteral nutrition based on the information provided from the doctor's office by phone. On [REDACTED], [REDACTED] received a telephonic request from Appellant's physician's office requesting Nepro 2 cans (850 calories) per day for Appellant. The physician's office indicated: Appellant's total calorie need per day was 2,100 calories; Appellant has been instructed to adhere to a renal diet; Appellant had a diagnosis of end stage kidney disease and is on hemodialysis; Appellant weighed 132 pounds, was 5'4" tall, and had a BMI of 23.09; and Appellant was recently diagnosed with cancer and will be starting chemotherapy. The [REDACTED] physician reviewer contacted Appellant's physician, who indicated a concern that Appellant would not be able to meet her nutritional needs when she starts chemotherapy. The physician reviewer denied the request for Nepro for Appellant at that time. Appellant's physician was to follow Appellant and advise if Appellant is unable to eat adequately or use other supplements. The physician's office was to call [REDACTED] if Appellant's status changes and a supplemental product was medically necessary. The nurse reviewer called Appellant's physician's office with the determination and stated the reconsideration process. No reconsideration request was received from the physician's office. (Exhibit B, pp. 7-8; PACER Project Manager Testimony)

Appellant disagrees with the denial and testified that since she started chemotherapy, she is down to 125 pounds. Appellant explained that sometimes she cannot eat as she will throw everything right back up. Appellant's mother bought her some Nepro to help. (Appellant and Wife Testimony)

While this ALJ sympathizes with Appellant's circumstances, the request for Nepro must be reviewed under the above cited MPM criteria. Based on the information submitted to [REDACTED], Appellant did not meet the standards of coverage for enteral nutrition for this request. At the time of this prior authorization request, Appellant had not lost any weight, her BMI was in the normal range, and there was no indication that Appellant was currently unable to eat. There was also insufficient information about any economic alternatives that had been tried and why the unique composition of Nepro was required. A prior authorization request for oral enteral nutrition cannot be granted based upon a concern about what may happen in the future. Appellant's physician's office was to monitor Appellant's condition and if needed, submit a new prior authorization request reporting any changes with Appellant's condition to support the medical necessity of Nepro or another oral enteral nutrition supplement.

The Department's determination must be upheld because Appellant did not meet the criteria in the Medicaid policy for enteral nutrition for the [REDACTED], prior authorization request based on the information provided by her doctor's office.

[REDACTED]
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The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly denied Appellant's prior authorization request for Nepro 2 cans per day based on the information available at that time.

IT IS THEREFORE ORDERED that:

The Department's decision is AFFIRMED.



Colleen Lack
Administrative Law Judge
for Nick Lyon, Director
Michigan Department of
Health and Human Services

Date Mailed: [REDACTED]

cc: [REDACTED]

***** 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 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.