

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF HEALTH AND HUMAN SERVICES**
P.O. Box 30763, Lansing, MI 48909
(877) 833-0870; Fax: (517) 373-4147

IN THE MATTER OF:

██████████,

Appellant

Docket No. 16-000083 PA
Case No. ██████████

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 ██████████. Appellant appeared and testified. Appellant's friend, ██████████, also appeared and testified. ██████████, Appeals Review Officer, and ██████████, Medicaid Utilization Analyst, represented the Michigan Department of Health and Human Services (the Department or MDHHS or Respondent).

Respondent's Exhibit A pages 1-16 were admitted as evidence.

ISSUE

Did the Department properly deny Appellant's prior authorization (PA) request for from Pro-Air Medical Supply and Equipment for Respironics Ever Q standard and Econ 02 Mizer portable oxygen?

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.
2. Appellant is classified as Medicaid-Healthy Michigan Plan-Emergency Services Only.
3. Appellant is asthmatic.
4. On ██████████ the Department received a prior authorization request from Pro-Air Medical Supply and Equipment for Respironics Ever Q standard and Econ 02 Mizer portable oxygen for Appellant.

5. On ██████████, the Department sent Appellant a Notification of Denial stating that: Coverage for the procedure codes E0431 and E1390 has been denied. The policy this denial is based on is Section 3 of the Emergency Services Only chapter of the Medicaid Provider Manual which indicates: Beneficiary's eligibility is listed as Medicaid-Healthy Michigan Plan – Emergency Services Only. Durable Medical Equipment is not covered. (State's Exhibit A page 5)
6. On ██████████, the Michigan Administrative Hearing System (MAHS) received Appellant's Request for Hearing. (State's Exhibit A page 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.

1.10 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, April 1, 2014, page 4.

Medicaid Provider Manual, Emergency Services Only Medicaid, Section 3-Coverage states that ESO Medicaid coverage is limited to labor and delivery services, and those services necessary to treat emergency conditions. The following are not covered under this benefit:

- Preventative services
- Follow-up services related to emergency treatment
- Treatment of chronic conditions (ongoing dialysis, chemotherapy, etc.)
- Sterilizations performed in conjunction with delivery
- Organ transplants
- Pre-scheduled surgeries.

Medical Supplies are limited to those items necessary to treat an emergency condition within an inpatient or outpatient hospital setting. Durable Medical Equipment is not covered.

This Administrative Law Judge has limited jurisdiction over Medicaid fair hearings pursuant to a written directive signed by the Department of Health and Human Services

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(formerly Department of Community Health) Director James K. Haverman, on February 22, 2013. The written directive states:

Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations or overrule or make exceptions to the department policy set out in the program manuals.

This Administrative Law Judge has no equity powers and cannot make a decision in contravention of Department policy.

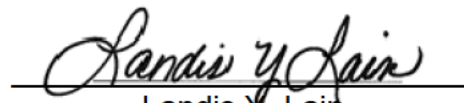
Appellant has failed to satisfy the burden of proving by a preponderance of the evidence that the Department improperly denied the durable medical equipment or medication. The denial is based upon Medicaid benefit exclusion. The Department does not have discretion to approve Appellant's request for items which are not covered Medicaid benefits. The decision to deny the request for prior authorization from Pro-Air Medical Supply and Equipment for Respironics Ever Q standard and Econ 02 Mizer portable oxygen for Appellant must be upheld under the circumstances.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly denied the Appellant's request for PA for upper and lower dentures.

IT IS THEREFORE ORDERED that:

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



Landis Y. Lain
Administrative Law Judge
for Nick Lyon, Director
Michigan Department of Health and Human
Services

LYL [redacted]

cc: [redacted]

Date Mailed: February 8, 2016

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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 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.