

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

P.O. Box 30763, Lansing, MI 48909
(517) 335-3997; Fax: (517) 373-4147

IN THE MATTER OF:

██████████,

Appellant

Docket No. 15-008772 MHP

██████████ ██████████

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. ██████████, paralegal, appeared and testified on behalf of ██████████ the Respondent Medicaid Health Plan (MHP). ██████████, Medical Director, also testified as a witness for the MHP.

ISSUE

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

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 enrolled in the Respondent MHP. (Testimony of Respondent's representative).
2. On or about ██████████, the MHP received a prior authorization request by telephone made on behalf of Appellant and requesting the medication Synthroid. (Testimony of Respondent's representative).
3. No written request or supporting medical documentation was submitted as part of that request. (Testimony of ██████████).
4. On ██████████, the MHP sent Appellant written notice that the request had been denied. (Exhibit A, pages 8-9).

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5. Specifically, the notice stated:

The request is denied based on the reason below:

It did not have all of the information needed to review the request.

This drug requires prior authorization. The following information is needed from your doctor to review the request:

Based on the facts given to us, we are not able to make a decision. Please have your doctor give us the following: Labs that show Levothyroxine was not working. SYNTHROID is a brand name drug with a generic available. Your plan covers the generic drug and higher doses of the drug. This decision was made per the ██████████ ██████████ ██████████ non-preferred medication guideline.

Exhibit A, page 8

6. On ██████████, the Michigan Administrative Hearing System (MAHS) received the request for hearing filed in this matter. (Petitioner's Exhibit 1, pages 1-4).
7. On ██████████, the MHP received medical documentation sent in by Appellant's doctor. (Exhibit A, pages 11-20).
8. ██████████ reviewed that additional information and determined that the request should still be denied. (Testimony of ██████████).

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.

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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, April 1, 2015 version
Medicaid Health Plan Chapter, pages 1-2
(Emphasis added by ALJ)*

Here, the MHP denied Appellant's prior authorization request for the medication Synthroid. As testified to by the MHP's witnesses, that denial was made pursuant to the MHP's medication guidelines, which require that preferred medications be tried prior to non-preferred medications. Specifically, the MHP denied the initial request for Synthroid because it did not have all the information needed to review the request and Appellant failed to show that, as required by the MHP's prior authorization requirements, the available generic drug was not working. Moreover, after subsequently receiving medical documentation from Appellant's doctor, the MHP again determined that Appellant's request was properly denied as that medical documentation failed to show

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that the generic drug that Appellant was using was not working and, in fact, it demonstrated that either the generic drug was working or that Appellant did not require any medication at all.

In response, Appellant testified that she now understood the MHP's decision and that she only pursued the appeal because her doctor was very specific that the name brand medication was more effective. She also testified that she has been using the generic alternative and believes it has been working, but possibly not to the extent her doctor hoped for.

Appellant has the burden of proving by a preponderance of the evidence that the MHP erred in denying her prior authorization request. Moreover, the undersigned Administrative Law Judge is limited to reviewing the MHP's decision in light of the information that was available at the time the decision was made.

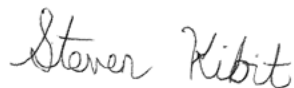
Given the above policy and evidence in this case, Appellant has failed to satisfy her burden of proof and the MHP's decision must be affirmed. Pursuant to both its contract and the MPM, the MHP is allowed to have a drug management program that includes a drug formulary and that requires a beneficiary to both use preferred medications prior to non-preferred medications and to demonstrate a medical necessity for the non-preferred medications prior to them being approved. Those are the guidelines used by the MHP in this case and, even with the medical documentation that was submitted after the denial, Appellant has failed to show that the generic alternative to the medication she requested has been tried and failed. Instead, as testified to by [REDACTED] and conceded by Appellant, the generic alternative is working.

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 the medication Synthroid.

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 Signed: [REDACTED]
Date Mailed: [REDACTED]

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cc:

***** 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.