



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

MIKE ZIMMER
DIRECTOR

[REDACTED]

Date Mailed: March 17, 2016
MAHS Docket No.: 16-000198
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

DECISION AND ORDER

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

After due notice, a telephone hearing was held on [REDACTED]. Petitioner appeared and testified. [REDACTED], Team Lead for Grievance and Appeals Department appeared and testified on behalf of [REDACTED] (MHP or Respondent)

Respondent's Exhibit A pages 1-71 were admitted as evidence.

ISSUE

Did the MHP properly deny the Petitioner's request for authorization of non-generic Synthroid?

FINDINGS OF FACT

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

1. Priority Health ("MHP") is contracted with the state of Michigan to arrange for the delivery of health services to Medicaid recipients.
2. At all times relevant to this case, Petitioner was enrolled in the MHP.
3. On [REDACTED], the MHP received a request from Petitioner's doctor, for authorization Synthroid. (Attachment C).
4. On [REDACTED] and on [REDACTED], the MHP requested additional information in the form of chart notes and relevant lab work

since the time of the prior approval (Attachment D)

5. On [REDACTED], the MHP received additional information.
6. On [REDACTED], the MHP reviewed the authorization request and sent Petitioner a Notice of Denial of Coverage stating: Usage of Synthroid 112 mcg does not meet the coverage criteria as outlined in [REDACTED] drug policy. This is the policy that identifies drugs that are approved for use. Your physician is aware of our drug policy and the coverage criteria. Per the Dispense as Written (DAW) Prior Authorization Criteria, before brand name Synthroid is covered, you must have a documented allergy to an inactive ingredient in the generic product, or be color-blind and need a specific brand for identification purposes. Levothyroxine and Levoxyl are covered drugs on our formulary. (Respondent's Exhibit A page 47)
7. On [REDACTED], the [REDACTED], approved a one-time fill for a 30 day supply of brand name Synthroid, to allow time for additional medical records to be submitted.
8. The DAW request of Synthroid 112 mcg Tab does not meet the coverage criteria as outlined in [REDACTED]'s Drug Policy entitled Generic Substitutions.
9. On [REDACTED], Petitioner's coverage through Priority Health Medicaid/CSHCS was terminated. (Attachment K)
10. A review of the state of Michigan's MI Health system also indicates that Petitioner was on Priority Health's Medicaid/CSHCS program through [REDACTED] (Attachment L)

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.

On May 30, 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 MHPs.

The Respondent is one of those MHPs.

The covered services that the Contractor has available for enrollees must include, at a minimum, the covered services listed below. The Contractor may limit services to those which are medically necessary and

appropriate, and which conform to professionally accepted standards of care. The Contractor must operate consistent with all applicable Medicaid provider manuals and publications for coverages and limitations. If new services are added to the Michigan Medicaid Program, or if services are expanded, eliminated, or otherwise changed, the Contractor must implement the changes consistent with State direction in accordance with the provisions of Contract Section 2.024.

Although the Contractor must provide the full range of covered services listed below they may choose to provide services over and above those specified. The covered services provided to enrollees under this Contract include, but are not limited to, the following:

- Ambulance and other emergency medical transportation
- Blood lead testing in accordance with Medicaid Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) policy
- Certified nurse midwife services
- Certified pediatric and family nurse practitioner services
- Chiropractic services
- Diagnostic lab, x-ray and other imaging services
- Durable medical equipment (DME) and supplies
- Emergency services
- End Stage Renal Disease services
- Family planning services (e.g., examination, sterilization procedures, limited infertility screening, and diagnosis)
- Health education
- Hearing and speech services
- Hearing aids
- Home Health services
- Hospice services (if requested by the enrollee)
- Immunizations
- Inpatient and outpatient hospital services
- Intermittent or short-term restorative or rehabilitative services (in a nursing facility), up to 45 days
- Restorative or rehabilitative services (in a place of service other than a nursing facility)
- Medically necessary weight reduction services
- Mental health care – maximum of 20 outpatient visits per calendar year
- Out-of-state services authorized by the Contractor
- Outreach for included services, especially pregnancy-related and Well child care
- Parenting and birthing classes
- Pharmacy services

- Podiatry services
- Practitioners' services (such as those provided by physicians, optometrists and dentists enrolled as a Medicaid Provider Type 10)
- Prosthetics and orthotics
- Tobacco cessation treatment including pharmaceutical and behavioral support
- Therapies (speech, language, physical, occupational) excluding services provided to persons with development disabilities which are billed through Community Mental Health Services Program (CMHSP) providers or Intermediate School Districts.
- Transplant services
- Transportation for medically necessary covered services
- Treatment for sexually transmitted disease (STD)
- Vision services
- Well child/EPSTD for persons under age 21 [Article 1.020 Scope of [Services], at §1.022 E (1) contract, 2010, p. 22].

(1) The major components of the Contractor's utilization management (UM) program must encompass, at a minimum, the following:

- (a) Written policies with review decision criteria and procedures that conform to managed health care industry standards and processes.
- (b) A formal utilization review committee directed by the Contractor's medical director to oversee the utilization review process.
- (c) Sufficient resources to regularly review the effectiveness of the utilization review process and to make changes to the process as needed.
- (d) An annual review and reporting of utilization review activities and outcomes/interventions from the review.
- (e) The UM activities of the Contractor must be integrated with the Contractor's QAPI program.

(2) Prior Approval Policy and Procedure

The Contractor must establish and use a written prior approval policy and procedure for UM purposes. The Contractor may not use such policies and procedures to avoid providing medically necessary services within the coverages established under the Contract. The policy must ensure that the review criteria for authorization decisions are applied consistently and require that the reviewer consult with the requesting provider when appropriate. The policy must also require that UM decisions be made by a health care professional who has appropriate clinical expertise regarding the service under review. [Contract, *Supra*, p. 49].

As stated in the Department-MHP contract language above, a MHP “must operate consistent with all applicable Medicaid Provider Manuals and publications for coverages and limitations.”

The [REDACTED] Medicaid Plan Handbook states “We use a formulary. This is a list of approved drugs” and “some drugs that are not on a formulary are: Brand name drugs when the Food and Drug Administration (FDA) has approved a generic medicine that can be used instead.” The Priority Health Medicaid Certificate of Coverage, Section 5. Schedule of Covered Services, B. Referral Care, 28. Outpatient Prescription Drugs states, “Covered in full with a generic substitution process.” (Attachment J)

Petitioner has failed to satisfy the burden of proving by a preponderance of the evidence that the MHP improperly denied the requested service. The denial is based upon the fact that Petitioner failed to provide the required information that the MHP needs to make a possible favorable determination. The decision to deny the request for authorization must be upheld under the circumstances.

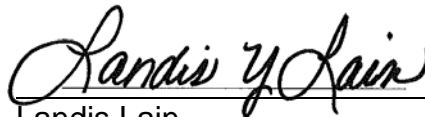
DECISION AND ORDER

Based on the above findings of fact and conclusions of law, the Administrative Law Judge finds that the MHP’s denial of the Petitioner’s request for Synthroid was appropriate under the circumstances.

IT IS THEREFORE ORDERED that:

The MHP’s decision is **AFFIRMED**.

LL [REDACTED]



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

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30763
Lansing, Michigan 48909-8139

Petitioner

[REDACTED]

DHHS -Dept Contact

[REDACTED]

Community Health Rep

[REDACTED]

Authorized Hearing Rep.

[REDACTED]