



RICK SNYDER
GOVERNOR

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

MIKE ZIMMER
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
MAHS Docket No.: 15-018485
[REDACTED]
[REDACTED]

ADMINISTRATIVE LAW JUDGE: Steven Kibit

DECISION AND ORDER

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

With due notice, a telephone hearing was scheduled for [REDACTED] at [REDACTED]. However, Petitioner failed to appear for the hearing and the matter was subsequently dismissed.

On [REDACTED] MAHS received a Request for Reconsideration filed by Petitioner. That request was granted on [REDACTED] and the matter was then rescheduled for a new hearing date.

After due notice, the telephone hearing in this matter was held on [REDACTED]. Petitioner appeared and testified on her own behalf. [REDACTED], Appeals Coordinator, appeared and testified on behalf of [REDACTED], the Respondent Medicaid Health Plan (MHP).

ISSUE

Did the Medicaid Health Plan properly deny Petitioner's request for the medication Harvoni?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. Petitioner is a Medicaid beneficiary enrolled in the Respondent MHP. (Undisputed testimony).

2. On or about [REDACTED], the MHP received a prior authorization request submitted on behalf of Petitioner by her doctor and requesting the medication Harvoni for treatment of Petitioner's Hepatitis C. (Undisputed testimony).
3. On [REDACTED], the MHP sent Petitioner written notice that the prior authorization request was denied. (Exhibit A, page 2).
4. With respect to reason for the denial, the notice stated in part:

The medication that was requested for you was Harvoni. According to the Medical Service Administration (MSA), a division of the Michigan Department of Community Health (MDCH), this medication is not a covered benefit under Michigan Medicaid. As a result this request has not been approved. Please contact your doctor to discuss alternatives.

Exhibit A, page 2

5. That same day, the MHP sent a similar notice of denial to Petitioner's doctor, in which it also noted that a full formulary list of the medications approved for coverage under Michigan Medicaid is available on the Department's website. (Exhibit A, page 3).
6. On [REDACTED], the Michigan Administrative Hearing System (MAHS) received the request for hearing filed in this matter. (Exhibit 1, page 1).

CONCLUSIONS OF LAW

The Medical Assistance Program (MA) 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 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, October 1, 2015 version
Medicaid Health Plan Chapter, page 1
(Emphasis added by ALJ)*

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, among other things, that its covered services are subject to the limitations and restrictions for appropriate drugs that are covered under the Medicaid Pharmaceutical Product List (MPPL) published by the Department.

In this case specifically, as provided in the denial notices and credibly testified to by the MHP's witness, the denial of the prior authorization request was based on the fact that

Harvoni was not covered under either the MHP's drug formulary or the MPPL at the time of the prior authorization request.

In response, Petitioner testified that she has been diagnosed with Hepatitis C for approximately ten years; its effects are worsening; and that she needs the medication. Petitioner also testified that the medication was prescribed by her doctor as the one needed. She further noted that she has kids.

However, while the undersigned Administrative Law Judge sympathizes with Petitioner, Petitioner 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 medication Harvoni given the above policy. The requested medication was not included on the MHP's formulary or the State of Michigan's MPPL at the time of the request in this case. Accordingly, Harvoni did not meet the coverage criteria under policy and it could not be approved.

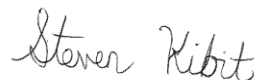
Respondent's representative indicated that, beginning [REDACTED], Harvoni will be covered under Medicaid in the [REDACTED], but that it will be still be excluded from the Medicaid Health Plan contract and Petitioner will have to seek it directly from the Department. However, regardless of what options Petitioner may have in the future, the denial at issue in this case was clearly proper and must be affirmed.

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, decides that the MHP properly denied Petitioner's prior authorization request for Harvoni.

IT IS, THEREFORE, ORDERED that:

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



SK/db

Steven Kibit
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

DHHS -Dept Contact

[REDACTED]
[REDACTED]
[REDACTED]

Community Health Rep

[REDACTED]
[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]