



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]

[REDACTED]
MAHS Docket No.: 16-001244
[REDACTED]
[REDACTED]

ADMINISTRATIVE LAW JUDGE: Steven Kibit

DECISION AND ORDER

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

After due notice, a hearing was held on [REDACTED] [REDACTED], Petitioner's adoptive mother, appeared and testified on Petitioner's behalf. [REDACTED], Petitioner's representative's husband, also testified as a witness for Petitioner. [REDACTED], Inquiry Dispute Appeal Resolution Coordinator, appeared on behalf of [REDACTED] [REDACTED], the Respondent Medicaid Health Plan (MHP). [REDACTED], Medical Director, testified as a witness for Respondent.

ISSUE

Did the Medicaid Health Plan properly deny Petitioner's prior authorization request for neuropsychological/psychological testing?

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 [REDACTED]-year-old male. (Exhibit A, page 4).
2. On or about [REDACTED], Respondent received a prior authorization request submitted on behalf of Petitioner by the [REDACTED] and requesting neuropsychological/psychological testing for Petitioner. (Exhibit A, pages 4-9).
3. As provided in that request, the testing was to be completed on [REDACTED]. (Exhibit A, page 4).

4. On [REDACTED], Respondent sent the medical provider written notice that the request for testing was denied on the basis that it did not meet the rules in the applicable guidelines. (Exhibit A, pages 13-14).
5. At some point, the testing was performed. (Testimony of Petitioner's representative).
6. Petitioner's representative was later advised by the [REDACTED] that the MHP was refusing payment. (Testimony of Petitioner's representative).
7. Petitioner's representative also subsequently contacted Respondent and was informed that the testing had not been approved. (Testimony of Petitioner's representative).
8. Petitioner and his representative have not been billed for the testing. (Testimony of Petitioner's representative).
9. On [REDACTED], the Michigan Administrative Hearing System (MAHS) received the request for hearing filed in this matter. (Exhibit A, pages 1-2).
10. In that request, Petitioner's representative asserts that they got a bill for a psychological evaluation that they never approved of or requested. (Exhibit A, pages 1-2).

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. 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 prior authorization requirements and utilization management and review criteria. In this case specifically, as provided in the denial notice and credibly testified to by the MHP's witness, the MHP utilized InterQual Behavioral Health criteria in determining that Petitioner did not meet the requirements for neuropsychological/psychological testing.

In response, Petitioner's representative testified that, while it was recommended, she and her husband never requested or agreed to the testing. She also testified that their daughter took Petitioner to [REDACTED] and the daughter thought the testing was covered. She further testified that, contrary to what was written in the request for hearing, she never received a bill, but that the [REDACTED] had indicated in [REDACTED] that it wanted to be paid for the testing and it still wants money as far as Petitioner's representative knows.

Petitioner has the burden of proving by a preponderance of the evidence that the MHP erred.

Here, the only action taken by the MHP was the denial of the prior authorization request for neuropsychological/psychological testing and, with respect to that action, Petitioner has failed to meet his burden of proving by a preponderance of the evidence that Respondent erred. In fact, Petitioner's representative made no attempt to dispute the Respondent's decision or show that the testing should have been approved.

Petitioner's representative instead argues that she should not be billed for the testing as they neither requested nor approved it. Respondent's representative also appears to agree with Petitioner, as she noted that when a provider accepts a patient as a Medicaid beneficiary, the beneficiary cannot be billed for Medicaid-covered services for which the provider has been denied payment because of a provider error. See also MPM, October 1, 2015 version, General Information for Providers Chapter, pages 31-32. Here, given that [REDACTED] submitted the prior authorization request, it appears that it accepted Petitioner as a Medicaid beneficiary; he received a Medicaid-covered service; and that the claim for payment were denied because of provider error, *i.e.* performing the test without a prior approval.

Petitioner's representative's fears regarding been billed may be unfounded as she has never been billed for the testing that was conducted months ago. However, even if she is subsequently billed, whatever issues remain between the Petitioner and the medical provider regarding the testing are beyond the scope of this hearing, which is limited to reviewing the MHP's action.

With respect to the MHP's action in this case, Petitioner has failed to demonstrate that Respondent erred and its decision must therefore be affirmed.

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, decides that Respondent properly denied Petitioner's request for a psychological evaluation.

IT IS, THEREFORE, ORDERED that:

The Medicaid Health Plan'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

Authorized Hearing Rep.

[REDACTED]

DHHS -Dept Contact

[REDACTED]

Petitioner

[REDACTED]

Community Health Rep

[REDACTED]