



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.: 16-001468
[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]. Petitioner appeared and testified on her own behalf. [REDACTED], Inquiry Dispute Appeal Resolution Coordinator, appeared on behalf of [REDACTED], the Respondent Medicaid Health Plan (MHP). [REDACTED], Medical Director, testified as a witness for Respondent.

ISSUE

Did Respondent properly deny Petitioner's prior authorization request for a power-operated vehicle (POV)?

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 Medicaid beneficiary who is enrolled in the Respondent MHP. (Exhibit A, page 5; Testimony of Respondent's Medical Director).
2. Petitioner has also been diagnosed with osteoarthritis, neuropathy peripheral unspecified, and hallux valgus deformity of the toe. (Exhibit A, pages 5-7).

3. Her past medical history also includes breast cancer, diabetes, and hypertension. (Exhibit 2, page 1).
4. On or about [REDACTED], the MHP received a prior authorization request submitted on Petitioner's behalf and requesting a power-operated vehicle (POV)/scooter for Petitioner. (Exhibit A, pages 4-16).
5. As part of that request, the doctor indicated that Petitioner currently ambulates with a cane with some difficulty, but that she can ambulate for greater than or equal to 180 feet with the use of her cane. (Exhibit A, pages 7-8).
6. The doctor also noted that Petitioner needs the scooter to go from her residence to doctor's appointments. (Exhibit A, page 13).
7. On [REDACTED], the MHP sent Petitioner written notice that the prior authorization request was denied. (Exhibit A, pages 26-27).
8. With respect to the reason for the denial, the notice stated:

A request was made for a scooter for you. In order for this to be covered, your condition must meet MDHHS standards of coverage. Per the standards of coverage, the notes sent from your doctor need to show you are unable to propel a manual wheelchair. The notes sent show you are able to walk at least 180 feet. There were no notes sent showing you cannot use a manual wheelchair. Therefore, the request for a scooter is denied.

Exhibit A, page 26

9. On [REDACTED], the Michigan Administrative Hearing System (MAHS) received the request for hearing filed in this matter regarding that denial. (Exhibit 1, pages 1-2; Exhibit A, pages 2-3).

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, January 1, 2016 version
Medicaid Health Plan Chapter, page 1
(Underline added for emphasis)*

Moreover, with respect to the specific request in this case, the MPM also provides in part:

Power Wheelchair or Power-Operated Vehicle (POV) in Both Community Residential and Institutional Residential Settings	<p>May be covered if the beneficiary meets all of the following:</p> <ul style="list-style-type: none">▪ Lacks ability to propel a manual wheelchair, or has a medical condition that would be compromised by propelling a manual wheelchair, for at least 60 feet over hard, smooth, or carpeted surfaces with or without rest intervals.▪ Requires use of a wheelchair for at least four hours throughout the day.▪ Is able to safely operate, control and maneuver the wheelchair in their environmental setting, including through doorways and over thresholds up to 1½", as appropriate.▪ Has a cognitive, functional level that permits safe operation of a power mobility device with or without training.▪ Has visual acuity that permits safe operation of a power mobility device.▪ For a three-wheeled power mobility device,
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	has sufficient trunk control and balance.
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Exhibit A, page 20

Here, Respondent denied Petitioner's prior authorization request pursuant to the above policies. Specifically, its witness and the notice of denial provided that the request was denied as there was no evidence submitted along with the prior authorization request that showed that Petitioner lacks the ability to use a manual wheelchair as required by the standards of coverage, or that Petitioner would even need a manual wheelchair given the information provided that she can ambulate for 180 feet with an assistive medical device. Respondent's witness also noted that, given that the prior authorization merely stated that Petitioner needed the scooter to go to appointments, the request could have also been denied on the basis that Petitioner does not need the use of the device for at least four hours per day, as required by policy.

In response, Petitioner testified that she cannot walk 180 feet with a cane without taking breaks and that she is a fall risk. She also provided a letter from her physical therapist dated [REDACTED], in which the physical therapist stated that Petitioner is only able to walk a short distance through the use of a cane. Petitioner further testified that she needs the scooter because of conditions with her back and knees, that she cannot propel a manual wheelchair, and that she would use the scooter for more than just appointments.

Petitioner 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 available evidence in this case, Petitioner has failed to satisfy her burden of proof and Respondent's decision must be affirmed. Pursuant to the MPM, the requested scooter in this case could only be approved if Petitioner lacks the ability to propel a manual wheelchair and, as noted by Respondent, the documentation submitted along with the request failed to demonstrate that Petitioner could not do so, especially given its statements that Petitioner can walk at least 180 feet with the use of a cane. Moreover, while Petitioner disputes the statements regarding her ability to ambulate and testified that she propel a manual wheelchair, her testimony is contradicted or unsupported by the actual documentation submitted along with the prior authorization request and, consequently, Respondent properly denied the request in this case.

To the extent Petitioner has additional or updated information regarding her medical needs and conditions, she and her doctor can always submit a new prior authorization request with that additional information and, if the request is again denied, she can file another request for hearing. With respect to the issue in this case however,

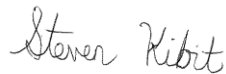
Respondent's decision must be affirmed given the documentation submitted and the information available at the time.

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 prior authorization request.

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

DHHS -Dept Contact

[REDACTED]
[REDACTED]
[REDACTED] [REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] [REDACTED]

Community Health Rep

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] [REDACTED]