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

RICK SNYDER
GOVERNOR

MIKE ZIMMER
DIRECTOR

Date Mailed:
MAHS Docket No.: 16-002072
Agency No.:
Petitioner:

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

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 telephone hearing was held on . Petitioner appeared and testified on his own behalf.

, Appeals and Grievance Coordinator, appeared on behalf of the Respondent Medicaid Health Plan (MHP). Medical Director, testified as a witness for the MHP (Respondent).

ISSUE

Did the Medicaid Health Plan properly deny Petitioner's request for epidural injections?

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 who is enrolled in the Respondent MHP.

2. On Petitioner's doctor submitted a prior authorization request on Petitioner's behalf, along with supporting documentation, requesting epidural steroid injections the back for Petitioner. (Exhibit A.3).

3. On [redacted], the Respondent sent Petitioner written notice that his prior authorization request for epidural steroid injections was denied on the basis that the submitted clinical documentation did not satisfy the criteria for Molina Healthcare Medical Coverage Guideline for Epidural Steroid Injections for Chronic Back Pain and Michigan Department of Health and Human Services, Medicaid Provider Manual 89.3 non-covered services: experimental/investigational. (Exhibit A.25).

4. On [redacted] the Michigan Administrative Hearing System (MAHS) received the request for hearing filed by Petitioner in this matter regarding the denial. (Exhibit A.2).

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 Medicaid Health Plans.

> The covered services that the Contractor has available for enrollees must include, at a minimum, the covered services listed below (List omitted by Administrative Law Judge). The Contractor may limit services to those which are medically necessary and appropriate, and which conform to professionally accepted standards of care. Contractors 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 1-Z.

Article II-G, Scope of Comprehensive Benefit Package.
MDHHS contract (Contract) with the Medicaid Health Plans,
September 30, 2004.

> The major components of the Contractor's utilization management plan must encompass, at a minimum, the following:
>
> - Written policies with review decision criteria and procedures that conform to managed health care industry standards and processes.
> - A formal utilization review committee directed by the Contractor's medical director to oversee the utilization review process.
> - Sufficient resources to regularly review the effectiveness of the utilization review process and to make changes to the process as needed.
> - An annual review and reporting of utilization review activities and outcomes/interventions from the review.
>
> The Contractor must establish and use a written prior approval policy and procedure for utilization management 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 utilization management decisions be made by a health care professional who has appropriate clinical expertise regarding the service under review.

Article II-P, Utilization Management, Contract, September 30, 2004.

Specific to the case here, under Section 8.3 Non-covered Services found in the MPM, the Respondent specifically excludes, among other items or services: "…Experimental/investigational drugs, biological agents, procedures, devices or equipment." (Exhibit A.30). The Respondent's Health Coverage Contract chapter on "Epidural Steroid Injections for Chronic Back Pain" excludes "epidural steroid injections for the treatment of cervical and/or thoracic radiculopathy." (Exhibit A.34).

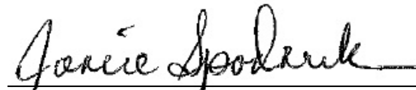
Here, the facts show that Petitioner's physician requested a PA for epidural steroid injections for cervical pain. The facts further show that federal law and state policy, as well as the corresponding subcontractor's contract prohibit Medicaid payments where the current scientific based peer reviewed literature and evidence based treatment guidelines generally recognized by the national medical community does not support cervical epidural injections. That is, experimental/investigational procedures are not covered by the Medicaid program. Thus, under these facts, the denial must be UPHELD.

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, decides that

IT IS, THEREFORE, ORDERED that:

The Medicaid Health Plan's decision is **AFFIRMED**.



JS/cg

Janice Spodarek
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

Community Health Rep

Petitioner