RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[redacted]

Date Mailed: [redacted]
MAHS Docket No.: 16-002863
Agency No.: [redacted]
Petitioner: [redacted]

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 hearing was held on [redacted]. Petitioner appeared and testified. [redacted] Inquiry Dispute Appeals Resolution Coordinator, and [redacted] Medical Director, appeared on behalf of the Respondent's subcontractor, the Medicaid Health Plan [redacted] (MHP or Respondent).

ISSUE

Did the Department properly deny the Appellant's [redacted] prior authorization request for an MRI without dye of her lumbar spine?

FINDINGS OF FACT

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

1. Appellant is a [redacted] year old female beneficiary of the welfare SSI and Medicaid programs enrolled with [redacted]. (Exhibit A, Testimony)

2. On [redacted], Appellant's physician sought prior approval for an MRI of Appellant's lumbar spine. (Exhibit A, pp 3-9)

3. [redacted] reviewed the request and issued a denial on [redacted] citing internal and Medicaid policy and InterQual Guidelines. The denial notice included Appellant's right to a hearing. (Exhibit A, p 10-28; Testimony)

4. On [redacted] the Michigan Administrative Hearing System received Appellant's hearing request. (Exhibit A, p 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.

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. 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.
>
> *Section 1.022(E)(1), Covered Services.*
> *MDCH contract (Contract) with the Medicaid Health Plans,*
> *October 1, 2009.*

(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.

Section 1.022(AA)(1) and (2), Utilization Management, Contract, October 1, 2009.

As it says in the above Department - MHP contract language, an MHP such as [redacted] may limit services to those that are medically necessary and that are consistent with applicable Medicaid Provider Manuals. It may require prior authorization for certain procedures. The process must be consistent with the Medicaid Provider Manual.

The [redacted] Medical Director testified that Appellant's request for an MRI of his lumbar spine was denied based on InterQual Imaging Criteria, which have been approved for use by the Department. (Exhibit A, pp 10-25). The QHP's Medical Director testified that InterQual Criteria for a suspected lumbar disc herniation or foraminal stenosis requires,

that the evidence shows that the applicant meets the guidelines set out in starting at #50 found at Exhibit A.18. More specifically, [redacted] testified that the evidence here did not show a non-specific pain radiation down the leg. Nor did the physical exam show definite weakness differences between legs; and did not show any hyper reflexivity that would be consistent with nerve root irritation. Thus, based on Petitioner's symptoms and objective physical exam in conjunction with a normal CT, the evidence did not meet the necessary criteria.

The purview of an administrative law judge (ALJ) is to review the Department's action and to make a determination if those actions are in compliance with Department policy, and not contrary to law. The ALJ must base the hearing decision on the preponderance of the evidence offered at the hearing or otherwise included in the record. The ALJ at an administrative hearing must base a decision upon the evidence of record focusing at the time of the assessment. The Department cannot be held accountable for evidence it was unaware of at the time of its determination

Applied to these facts, the determination made by the Respondent is supported by credible and substantial evidence of record and thus, is upheld.

It is noted that the Respondent testified that since this denial, Petitioner's physician has resubmitted a prior authorization with presumably medical documents that meet the InterQual criteria, approved [redacted]. This subsequent approval is not at issue and not reviewed herein.

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 denying the [redacted] MRI of the lumbar spine denied on [redacted] 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 [redacted]

Petitioner [redacted]

Community Health Rep [redacted]