



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.: 16-002939  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Colleen Lack**

**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], the Petitioner, appeared on her own behalf. [REDACTED], Assistant General Counsel, represented [REDACTED], the Medicaid Health Plan (MHP). [REDACTED], Medical Director, appeared as a witness for the MHP.

During the hearing proceedings, the MHP's Hearing Summary packet was admitted as Exhibit A, pp. 1-84.

**ISSUE**

Did the Medicaid Health Plan properly deny Petitioner's prior authorization request for liver transplant?

**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 [REDACTED], the MHP received a prior authorization request for liver transplantation. (Exhibit A, pp. 9-63)
3. On [REDACTED], the MHP sent Petitioner and her doctors' office a denial notice, in part, stating that the prior authorization request was not authorized because the clinical information submitted included notes showing Petitioner's Model for End-stage Liver Disease (MELD) score was 14 and Petitioner must have a MELD score of 15 or greater. (Exhibit A, pp. 67-75)
4. On [REDACTED] the MHP received additional clinical information showing that labs were repeated on [REDACTED] and Petitioner's MELD score was 16. (Exhibit A, pp. 64-66)
5. On [REDACTED] the MHP authorized the procedure based on the new information provided. (Exhibit A, p. 7)
6. On [REDACTED], the MHP reversed the decision based on requirements of the compliance policy not being met. (Exhibit A, p. 7)
7. There is no documentation establishing that the MHP issued written notice of the [REDACTED], approval or the [REDACTED], denial.
8. On [REDACTED], Petitioner's Request for Hearing was received by the Michigan Administrative Hearing System. (Exhibit A, pp. 2-3)

### **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 Health and Human Services (MDHHS) 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 MDHHS 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 Plans Chapter, p. 1*

The MPM addresses organ transplants:

## **12.6 ORGAN TRANSPLANTS**

Medicaid covers organ transplants and related services if all requirements for these services are met. PA is required for all beneficiary, donor, and potential donor services related to all organ transplants except cornea and kidney transplants. If transplantation of additional organ(s) is to occur during the same operative session as a cornea or kidney transplant, PA is required.

Prior to surgery, the beneficiary must be evaluated at an accepted transplant center approved by the Office of Medical Affairs (OMA) to determine if he is a good transplant candidate. The attending physician must obtain the PA for this evaluation. If the beneficiary is accepted as a transplant candidate, the PA for the evaluation also covers the transplant and related services.

*MPM, January 1, 2016, version  
Provider Chapter, p. 51*

The MHP reviewed Petitioner's prior authorization request under their own Policy and Procedure Manual regarding liver transplant. (Exhibit A, pp. 76-82) As noted above, MHPs must operate consistently with all applicable published Medicaid coverage and limitation policies but are allowed to develop prior authorization requirements and utilization management and review criteria that differ from Medicaid requirements. The MHP's Policy and Procedure Manual regarding liver transplant is consistent with the MPM policy for organ transplants and the MHPs prior approval process is allowable.

In part, the MHP's criteria for a liver transplant requires:

7. No evidence of current dependence on alcohol (6 months) or illicit substances (6 months). In order to ensure the best outcomes, blood or urine testing will be undertaken between evaluation and procurement phase with documented evidence of ongoing compliance with abstinence of these substances, as well as the member's plan of care, routine preventative visits and disease management. If there is evidence of alcohol or illicit substance abuse it will be required that the member has weekly substance abuse/dependence support group and/or participation in an outpatient treatment program. Member is required to have successful completion of the program and/or support group.

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12. MELD (age greater than 12) score or PELD (age less than 12) score greater than or equal to 15 \*\* (MELD/PELD) exception points may be given for the presence of hepatopulmonary syndrome, hyponatremia, primary oxaluria, Familial Amyloidosis, combined liver/intestine transplant, children with Hepatoblastoma, children with urea cycle disorders and organic academia, children in need of combined liver/intestine transplant)
13. Nonsmoker for 6 months with documentation through physician certification and/or negative cotinine urine test

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\*\* Model for End-Stage Liver Disease (MELD score) =  $3.78(\text{serum albumin in mg/dl}) + 11.2(\text{INR}) + 9.57(\text{serum creatinine in mg/dl}) + 6.43$ . Pediatric End-Stage Liver Disease (PELD score) =  $4.08(\text{serum bilirubin}) + 18.57(\text{INR}) - 6.87(\text{albumin in g/dl}) + 4.36(\text{if } <1 \text{ year old}) + 6.67(\text{growth failure})$ .

Members with a MELD or PELD score <15 may be considered when Hepatocellular carcinoma that meets the Milan selection criteria is present, hepatopulmonary syndrome, primary oxaluria, familial Amyloidosis, combined liver/intestine transplant, children with hepatoblastoma, children with urea cycle disorders and organic academia, children in need of combined liver/intestine transplant

*MHP Policy and Procedure Manual,  
Policy Number F. 14  
July 29, 2015 last revision date, pp.4-5  
(Exhibit A, pp. 79-80)*

The MHP also considered their policy regarding member compliance. In part, this policy states:

Medical procedures identified in MHP's Medical Policies will not be approved if any one of the following indicators of non-compliance are observed or documented in a legally competent adult unless expressly approved by the Executive Committee or its designee:

1. Documentation of continued non-compliance with any medical therapy in chart notes of any provider the member is currently seeing. This includes non-compliance with any medications or treatment.

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5. For members with a history of tobacco use, member fails or refuses to submit to monthly cotinine testing for the preceding 6 months prior to the medial service/procedure or refuses to actively and continuously participate in an accepted smoking cessation program. Documentation of a positive cotinine urine test during the proceedings 6 months prior to the scheduled procedure that a member is smoking or has smoked concurrently with prescription medical therapy, including, but not limited to specialty, non-formulary, or PA medication therapy, when smoking may adversely affect the disease state being treated with a prescription medication.

*MHP Policy and Procedure Manual,  
Policy Number I.07  
May 29, 2015 last revision date, pp.1-2  
(Exhibit A, pp. 83-84)*

On [REDACTED], the MHP received a prior authorization request for liver transplantation. (Exhibit A, pp. 9-63) On [REDACTED], the MHP sent Petitioner and her doctors' office a denial notice, in part, stating that the prior authorization request was not authorized because the clinical information submitted included notes showing Petitioner's MELD score was 14 and Petitioner must have a MELD score of 15 or greater. (Exhibit A, p. 67-75)

On [REDACTED], the MHP received additional clinical information showing that labs were repeated on [REDACTED], and Petitioner's MELD score was 16. (Exhibit A, pp. 64-66) Accordingly, on [REDACTED], the MHP authorized the procedure based on the new information provided. (Exhibit A, p. 7)

However, on [REDACTED], the MHP reversed the decision based on requirements of the compliance policy not being met. (Exhibit A, p. 7) Specifically, the medical documentation indicated noncompliance with methadone treatment; that Petitioner had stopped smoking well less than 6 months prior; and was noncompliant with taking lactulose, a medication to treat hepatic encephalopathy. (Exhibit A, pp. 32, 37, 40, and 49; Medical Director Testimony)

While not as clearly stated in the MHP's policy, the Medical Director testified that an individual must stop use of any form of tobacco or nicotine. The cotinine urine test would have to be completely negative. (Medical Director Testimony)

It is noted that there was no documentation establishing that any written notice of the [REDACTED], approval or the [REDACTED], denial was issued by the MHP.

Petitioner disagrees with the denial and testified that the methadone clinic sent in paperwork saying she was compliant. However, Petitioner did not know when the documentation from the methadone clinic was sent to the MHP. Petitioner asserted that there could have been a mess up on the drug screening. Petitioner explained that you cannot just go off methadone and have it not be in your system. Petitioner noted that she drinks it right there in front of the nurses. Petitioner also explained that she was smoking electronic cigarettes for a while. However, there was a time when Petitioner panicked about the cirrhosis and went back to smoking, but then quit again. Petitioner asserted that she quit smoking when she was told to. However, Petitioner also asserted that she quit on her own and did not know it was part of the criteria until later on. (Petitioner Testimony)

The documentation submitted to the MHP for this prior authorization request is not entirely consistent with Petitioner's testimony. For example, it does not appear that any documentation from the methadone clinic was sent to the MHP. (Exhibit A, pp. 9-66) Further, a [REDACTED], progress note states Petitioner stopped smoking 20 days ago; started the steamed cigarettes; and was willing to start nicotine patches. (Exhibit A, p. 40) Accordingly, Petitioner had not been a non-smoker for 6 months as required by the MHP policy for liver transplant. Overall, the medical documentation does not establish that Petitioner met the MHP's criteria for liver transplant for the

██████████, prior authorization request. Therefore, the MHP's determination to deny Petitioner's request for liver transplant was proper based on the information submitted to the MHP.

As discussed, Petitioner may wish to have a new prior authorization request submitted to the MHP with any additional and/or updated clinical documentation. The MHP confirmed that they would review the new prior authorization request and make a new determination.

### **DECISION AND ORDER**

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

**IT IS, THEREFORE, ORDERED** that:

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



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**Colleen Lack**  
Administrative Law Judge  
for Nick Lyon, Director  
Department of Health and Human Services

CL/cg

**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]