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.: 16-003147
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] appeared as a witness. [redacted], Lead Grievance and Appeals for subcontractor Prior Health of the Michigan Department of Health and Human Services (Respondent or Department) represented the Respondent.

ISSUE

Did the Medicaid Health Plan properly deny Petitioner's request for Solesta injections, procedure code L8605 - an injectable bulking agent?

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 female Medicaid beneficiary who is enrolled in the Respondent MHP.

2. On [redacted] and subsequently [redacted], Petitioner's doctor submitted a prior authorization request on Petitioner's behalf, along with supporting documentation, requesting Solesta injections. (Exhibit A).

3. On [redacted], the Respondent sent Petitioner written notice that the prior authorization request for L8605-an injectable bulking agent was denied on the grounds that it is not included in the coverage codes by the Respondent and is therefore excluded from coverage by Priority Health Choice. (Exhibit A.1).

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

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, the MPM, under the Practitioner Chapter states injectable drugs and biologicals that are covered must be included in the Practitioner and Medical Clinic Fee Schedule. (MPM Section 3.13). The Respondent here submitted the Michigan Department of Health and Human Services Practitioner and Medical Clinic Fee Schedule page 235 of 237. This page would contain Petitioner's request for L8605 as a billable procedure code (Attachment G of Exhibit A) if it were a covered services. This procedure codes is not included on the Respondent's fee schedule.

As this code is not recognized as a covered code for which the Medicaid program pays, there is no eligibility. As such, Federal and state law does not allow the subcontractor to pay for it.

Petitioner argued that she should be entitled to an exception. However, any such 'exception' is not recognized by the MPM and as such, this ALJ would have no jurisdiction to review the same.

Based on the evidence here, and at the time of the denial, this ALJ must uphold the decision as it complies with the requirements of the MPM and the subcontractor's contract with the Department of Health and Human Services.

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, decides that the Respondent properly denied the Petitioner's PA request for a non-covered service, and thus,

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 [redacted]

Petitioner [redacted]

Community Health Rep [redacted]