



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

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

[REDACTED]
MAHS Docket No.: 16-004584
[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.*, and upon a request for hearing filed on the minor Petitioner’s behalf.

After due notice, a telephone hearing was held on [REDACTED] [REDACTED] [REDACTED], Petitioner’s mother, appeared and testified on Petitioner’s behalf through the use of an interpreter. [REDACTED], Inquiry Dispute Appeal Resolution Coordinator, appeared and testified on behalf of [REDACTED], the Respondent Medicaid Health Plan (MHP). [REDACTED] and Medical Director for Respondent, also testified as a witness for the MHP.

ISSUE

Did the Medicaid Health Plan properly deny Petitioner’s request for speech therapy?

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 has been diagnosed with severe autism. (Testimony of Petitioner’s representative).
2. Due to her autism, Petitioner has been receiving Applied Behavior Analysis (ABA) services [REDACTED] hours per day, [REDACTED] days per week. (Testimony of Petitioner’s representative).

¹ For purposes of hearing, Petitioner’s case was consolidated with a similar case involving her sister.

3. Petitioner is also enrolled in the Respondent MHP and, in [REDACTED] requested speech therapy services through Respondent. (Testimony of Respondent's representative; Testimony of Respondent's Medical Director).
4. Respondent subsequently denied the request for speech therapy on the basis that it was not a covered benefit and that Petitioner was eligible to receive such services elsewhere. (Testimony of Respondent's representative; Testimony of Respondent's Medical Director).
5. On [REDACTED], the Michigan Administrative Hearing System (MAHS) received a request for hearing filed by Petitioner's representative with respect to that 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 MHPs and, as provided in the Medicaid Provider Manual (MPM), is responsible for providing 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.

1.1 SERVICES COVERED BY MEDICAID HEALTH PLANS (MHPS)

The following services must be covered by MHPs:

* * *

- Therapies (speech, language, physical, occupational)

* * *

1.2 SERVICES EXCLUDED FROM MHP COVERAGE BUT COVERED BY MEDICAID

The following Medicaid services are not covered by MHPs:

* * *

- Services provided to persons with developmental disabilities and billed through the Community Mental Health Services Program (CMHSP)
- Services provided by a school district and billed through the Intermediate School District

Pursuant to the above policy and its contract with the Department, the MHP denied Petitioner's request in this case. Specifically, as testified to by Respondent's Medical Director, while the requested speech therapy is medically necessary, it is not a covered benefit of the MHP's contract. Respondent's medical director also testified that the requested speech therapy is considered a developmental disability service in this case and that Petitioner's representative must therefore seek it elsewhere through a Community Mental Health Services Program (CMHSP) or the local Intermediate School District.

In response, Petitioner's representative testified that, while Petitioner is receiving ABA services, Petitioner also needs speech therapy and that both the hospital and Petitioner's doctors have advised Petitioner's representative to request the services through Respondent. Petitioner's representative further testified that she has not requested the services through anywhere else, but that it is her understanding that Petitioner cannot go to school because she is still in diapers.

Petitioner bears the burden of proving by a preponderance of the evidence that the MHP erred in denying the request for speech therapy.

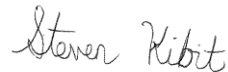
Given the record in this case, Petitioner has failed to meet that burden of proof and the MHP's decision must therefore be affirmed. While speech therapy is a service generally covered by the MHP, the MPM expressly excludes from MHP coverage both services provided to persons with developmental disabilities and billed through the Community Mental Health Services Program (CMHSP) and services provided by a school district and billed through the Intermediate School District. Here, Petitioner has a developmental disability and already appears to be receiving services through a CMHSP, given that ABA is a covered service through the CMHSP, and such developmental disability services may also include Speech, Hearing, and Language Services. See MPM, January 1, 2016 version, Mental Health/Substance Abuse Chapter, pages 15, 21-22, 141-151. Similarly, school based services provided by the local Intermediate School District also include Speech, Language and Hearing Therapy. See January 1, 2016 version, School Based Services Chapter, pages 24-26. However, Petitioner's representative has never requested speech therapy for Petitioner through the CMHSP or the school district prior to requesting it through her MHP and, consequently, Petitioner's request must be denied at this 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 request for speech therapy.

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

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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