



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: June 17, 2016  
MAHS Docket No.: 16-005815  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Landis Lain

### **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 is a minor child. His mother [REDACTED] appeared on behalf of the Petitioner; [REDACTED], Appeals Resolution Coordinator and Dr. [REDACTED], Medical Director, represented [REDACTED] of Michigan, the Medicaid Health Plan (MHP).

### **ISSUE**

Did the Medicaid Health Plan properly deny Petitioner's request for Outpatient 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 Medicaid beneficiary, date of birth [REDACTED].
2. On [REDACTED], the MHP received a referral and request for six additional visits of Speech Therapy for the continuation of home education program with discharge to his local school system/early-on program. (Respondent's Exhibit A page 7)
3. On [REDACTED], the MHP Medical Director denied Speech Therapy for Petitioner. Stating that the referral does not meet Medicaid Provider Manual, Occupational Therapy section criteria for Speech Therapy 5.3. The service is available through the member's school district. (Respondent's Exhibit A page 6)

4. Per [REDACTED] of Michigan Member Handbook Certificate of Coverage Appendix B – Coordination of Care Services, members eligible are referred to receive the requested speech therapy through the intermediate school district for their coordination of care. Molina Healthcare of Michigan Handbook Certificate of coverage Appendix C- Excluded Services & Limitations, services provided by a school district and billed through the intermediate school district are not a covered [REDACTED] benefit. A denial letter will be mailed which will explain the appeal process. (Respondent's Exhibit A page 6)
5. On [REDACTED], the Michigan Administrative Hearing system received a Request for Hearing to contest the denial of Out Patient therapy by the MHP.

### **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.*

The [REDACTED] Michigan Medicaid Certificate of coverage states that School Based Services are Services provided by a school district and billed through the Intermediate School Districts. (Appendix B, Section k. Coordination of Care Services, page 26) Further, Developmental Disability Services, including therapies (speech, language, physical, occupational) provided to persons with developmental disabilities which are billed through the Community Mental Health Program. Appendix B, Section I. Coordination of Care Services, page 26)

Petitioner has failed to satisfy the burden of proving by a preponderance of the evidence that the MHP improperly denied the requested speech therapy. The denial is based upon Medicaid benefit exclusion. The Medicaid Health Plan (MHP) does not have discretion to approve Petitioner's request for items which are not covered Medicaid benefits. Services provided by a school district and billed through the intermediate

school district are not a covered Molina Healthcare of Michigan benefit. The decision to deny the request for authorization must be upheld under the circumstances.

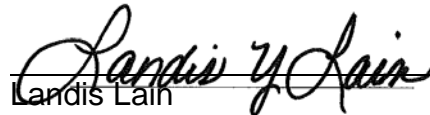
**DECISION AND ORDER**

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, decides that the MHP properly denied speech therapy services which can be provided to Petitioner through Community Health and the Intermediate School district.

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

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

LL ■



Landis Lalin

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]

**Community Health Rep**

[REDACTED]

**Petitioner**

[REDACTED]