



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 14, 2016
MAHS Docket No.: 16-006368
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Robert J. Meade

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 42 CFR 431.200 *et seq.*, following Petitioner's request for a hearing.

After due notice, a hearing was held on June 14, 2016. Petitioner appeared on her own behalf. [REDACTED], Inquiry Dispute/Appeal Resolution Coordinator, represented [REDACTED], the Medicaid Health Plan (MHP or [REDACTED]). [REDACTED] M.D., [REDACTED] Medical Director, appeared as a witness for the MHP.

ISSUE

Did the MHP properly deny Petitioner's request for pain injections?

FINDINGS OF FACT

Based on the competent, material, and substantial evidence presented, the Administrative Law Judge finds as material fact:

1. Petitioner is a [REDACTED]-year-old Medicaid beneficiary, born [REDACTED]. (Exhibit A, p 3; Testimony)
2. On or about [REDACTED], the MHP received a Prior Authorization Request from [REDACTED] on behalf of Petitioner for pain injections. The diagnosis listed in the prior authorization request supporting the request for pain injections was low back pain. (Exhibit A, pp 3-6; Testimony)
3. On [REDACTED], the MHP advised Petitioner and her physician that the request for pain injections was denied because the information supplied did not show that Petitioner's condition met [REDACTED] Medical Coverage Guidance for Facet Joint Diagnostic Injections for Chronic Spinal Pain criteria. Specifically, the notice indicated that the information provided

did not show that Petitioner's condition had failed to improve after at least three (3) months of conservative treatment, such as taking medications, activity modification, and physical therapy. The notice also advised Petitioner that the prior authorization request was denied because the requesting physician was out-of-network. (Exhibit A, pp 7-11; Testimony)

4. On [REDACTED], Petitioner's Request for Hearing was received by the Michigan Administrative Hearing System (MAHS). (Exhibit 1)

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 MHPs.

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 Community Health (MDCH) 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 MDCH 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.

*Medicaid Provider Manual
Medicaid Health Plan Chapter
April 1, 2016, p 1
(Emphasis added)*

Molina Healthcare's Medical Coverage Guidance for Facet Joint Diagnostic Injections for Chronic Spinal Pain provides, in pertinent part:

Diagnostic facet joint injections may be considered medically necessary and may be authorized for patients with chronic facet joint pain when the following criteria are met:

- Diagnosis of chronic severe somatic, non-radicular back pain (cervical, thoracic, or lumbar):
 - Chronic back pain is defined as persisting beyond 2 months:
 - Affecting activity of daily living functional ability:>6 on the NRS Pain Rating Scale
 - Unresponsive to the following methods of pain control:
 - A trial of conservative treatment modalities have been tried and failed for a minimum of 3 months:
 - Medications: NSAIDS, muscle relaxants, corticosteroids, antidepressants, anticonvulsants, or opiates;
 - Activity modification; and
 - Physical therapy.

Exhibit A, pp 12-13

The MHP's witnesses testified that the request for pain injections was denied because the information supplied did not show that Petitioner's condition met Molina Healthcare's Medical Coverage Guidance for Facet Joint Diagnostic Injections for Chronic Spinal Pain criteria. Specifically, the MHP's witnesses indicated that the information provided did not show that Petitioner's condition had failed to improve after at least three (3) months of conservative treatment, such as taking medications, activity modification, and physical therapy. The MHP's witnesses pointed out that the referring physician mentioned physical therapy as an option in the medical records submitted, but did not include any evidence that Petitioner had ever tried physical therapy. The MHP's witnesses also indicated that the prior authorization request was denied because the requesting physician was out-of-network.

Petitioner testified she has tried physical therapy and medications in the past, but that the pain always returns. Petitioner indicated that she last tried physical therapy from [REDACTED] to [REDACTED].

Petitioner has failed to satisfy her burden of proving by a preponderance of the evidence that the MHP improperly denied the requested pain injections. As indicated above, pain injections are covered if Petitioner's condition failed to improve after at least three (3) months of conservative treatment, such as taking medications, activity modification, and physical therapy. Here, while Petitioner may have tried physical therapy and medications in the past, no documentation of those attempts was included with the prior authorization request. As such, there was no way for the MHP to verify the attempts and confirm that the trials were unsuccessful. The prior authorization request was also properly denied because the requesting physician was out-of-network. As such, the denial was proper.

Petitioner was given instructions on how to request that her physicians submit a new prior authorization request with the proper documentation.

DECISION AND ORDER

Based on the above findings of fact and conclusions of law, the Administrative Law Judge finds that the MHP's denial of the Petitioner's request for pain injections was proper.

IT IS THEREFORE ORDERED that:

The MHP's decision is **AFFIRMED**.



RM/cg

Robert J. Meade

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]