



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]

Date Mailed: October 27, 2016  
MAHS Docket No.: 16-010570  
Agency No.: [REDACTED]  
Petitioner: [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 a hearing filed on the minor Petitioner's behalf.

After due notice, a telephone hearing was held on October 5, 2016. [REDACTED], the minor Petitioner's father, appeared and testified on Petitioner's behalf. [REDACTED] Appeal and Grievance Coordinator, appeared and testified on behalf of [REDACTED], the Respondent Medicaid Health Plan (MHP). Dr. [REDACTED], M.D. and Medical Director, also testified as a witness for Respondent.

### **ISSUE**

Did Respondent properly deny Petitioner's prior authorization request for blood ketone tests or reagent strips?

### **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 two-year-old Medicaid beneficiary who is enrolled in the Respondent MHP. (Exhibit A, page 4; Testimony of Respondent's representative).
2. On or about June 21, 2016, Respondent received a prior authorization request submitted on Petitioner's behalf and requesting blood ketone tests or reagent strips for Petitioner. (Exhibit A, pages 3-10).

3. That request and its supporting documentation indicated that Petitioner has been diagnosed with refractory myoclonic epilepsy in the context of GLUT1 deficiency syndrome and that she is being treated with a ketogenic diet. (Exhibit A, pages 4-5).
4. It also discussed why urine testing is inappropriate for Petitioner and why she needed the requested equipment to monitor her blood ketone and glucose. (Exhibit A, page 5).
5. The specific Current Procedural Terminology (CPT) or Healthcare Common Procedure Coding System (HCPCS) codes used in the request were A4252, A4253 and A4259. (Exhibit A, page 4).
6. During its review, Respondent found that those codes were not included on the Michigan Department of Health and Human Services' Medical Supplier/Orthotists/Prosthetists/DME Dealers Fee Schedule. (Exhibit A, page 11; Testimony of Respondent's Medical Director).
7. On July 30, 2016, Respondent sent Petitioner written notice that the prior authorization request was denied. (Exhibit A, pages 13-17).
8. Regarding the reason for the denial, the notice provided:

The notes sent by your doctor shows your child has a seizure condition. A request for lab work was received. The requested services, (A4252- Blood ketone test or reagent strips) is not covered by your insurance. The decision is based on Michigan Department of Health and Human Services, Medical Supplier/DME/Prosthetics and Orthotics Database. Please follow up with your doctor to discuss healthcare options.
9. On August 2, 2016, the Michigan Administrative Hearing System (MAHS) received the request for hearing filed in this matter regarding that denial. (Exhibit A, page 2).

*Exhibit A, page 18*

## 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 . . .

*MPM, July 1, 2016 version  
Medicaid Health Plans Chapter, page 1  
(Underline added for emphasis)*

Pursuant to the above policy and its contract with the Department, the MHP has developed prior authorization requirements and utilization management and review criteria. In part, as testified to by Respondent's witnesses and provided in its exhibit, Respondent uses the Department's Medical Supplier/Orthotists/Prosthetists/DME Dealers Fee Schedule. Moreover, as testified to by Respondent's witnesses and as shown in its exhibit, the equipment requested in this case is not identified as a covered benefit on the Michigan Department of Health and Human Services' Medical Supplier/Orthotists/Prosthetists/ DME Dealers Fee Schedule.

In response, Petitioner's representative testified that the prescription as written may not fully describe Petitioner's medical diagnoses and need for the requested equipment.

Petitioner bears the burden of proving by a preponderance of the evidence that Respondent erred in denying the prior authorization request. Moreover, the undersigned Administrative Law Judge is limited to reviewing the MHP's decision in light of the information available at the time the decision was made.

Given the available evidence and applicable policies in this case, Petitioner has failed to meet that burden of proof and the MHP's decision must be affirmed. Respondent is permitted by Department policy and its contract to develop review criteria; it has done so; and, pursuant to the applicable review criteria, the requested equipment is not covered by Respondent as it covered under the MDHHS Medical Supplier/Orthotists/Prosthetists/DME Dealers Fee Schedule. While the undersigned can certainly empathize with Petitioner's situation, the undersigned has no equitable authority and cannot ignore clear policy. Accordingly, Petitioner has failed to meet her burden of proof and the denial of the prior authorization request must be affirmed.


### **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 prior authorization request for blood ketone test or reagent strips.

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

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

SK/tm

  
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**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

**DHHS -Dept Contact**

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