



RICK SNYDER  
GOVERNOR

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

MIKE ZIMMER  
DIRECTOR

[REDACTED]

Date Mailed: [REDACTED]  
MAHS Docket No.: 16-000719  
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.*, upon the Petitioner's request for a hearing.

After due notice, a hearing was held on March [REDACTED]. Petitioner appeared and testified on his own behalf. [REDACTED], Appeals Grievance Coordinator, represented [REDACTED], the Medicaid Health Plan (MHP). [REDACTED], Medical Director, appeared as a witness for the MHP.

### **ISSUE**

Did the MHP properly deny Petitioner's request for an epidural steroid injection?

### **FINDINGS OF FACT**

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. On [REDACTED], the MHP received a request from Petitioner's medical providers seeking approval for an epidural steroid injection to treat Petitioner's chronic back pain. (Exhibit A, pp 4-8; Testimony).
2. The MHP reviewed the submitted documents and Petitioner's general medical history. (Testimony)

3. The MHP determined that the request for an epidural injection had to be denied because such injections are only approved if there is documentation showing that the beneficiary had tried other ways to relieve the pain including using medication, reducing activity and going to physical therapy. (Exhibit A, pp 9-10; Testimony)
4. On [REDACTED], the MHP sent Petitioner and his provider written notice that the request for an epidural injection was denied because Petitioner had not shown that he had tried other ways to relieve the pain including using medication, reducing activity and going to physical therapy. (Exhibit A, pp 29-33; Testimony)
5. On [REDACTED], the Michigan Administrative Hearing System (MAHS) received Petitioner's request for hearing.

### **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 statutes, the Social Welfare Act, the Administrative Code, and the State Plan under Title XIX of the Social Security Act Medical Assistance Program.

In 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 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  
January 1, 2016, p 1  
(Emphasis added)*

Here, the MHP has properly developed utilization guidelines for epidural steroid injections and those guidelines include the following criteria:

Epidural corticosteroid injections (ESI) (anesthetic combined with corticosteroid) are considered medically necessary and may be authorized for chronic refractory back pain (lumbar) when all of the following criteria are met:

- Adults who are age 18 years of older; and
- Chronic back pain is defined as persisting beyond 3 months:
  - Affecting activity of daily living functional ability: >4 on the NRS Pain Rating Scale
  - Unresponsive to the following methods of pain control:
    - A trial of conservative 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

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(Exhibit A, pp 9-10)

Here, the MHP's Medical Director testified that Petitioner's request for an epidural steroid injection was denied because there was no evidence in the documentation submitted with the prior authorization request showing that Petitioner had tried other ways to relieve the pain including using medication, reducing activity and going to physical therapy. MHP's Medical Director indicated that the MHP is required by the state of Michigan to have criteria for approving services and that the above criteria for epidural steroid injections has been approved by the state of Michigan.

Petitioner testified that he does not want to get out of bed most days because the pain is so bad. Petitioner indicated that the pain runs down both buttocks and both thighs. Petitioner testified that physical therapy would be a waste of time, he cannot afford it, and he has no transportation to get to physical therapy. Petitioner reviewed the medications he is currently taking in an attempt to deal with his pain. Petitioner testified that it takes him five minutes to get out of bed because of his pain. Petitioner indicated that he also just had his knee replaced.

In response, the MHP's Medical Director indicated that the MHP does provide transportation and would provide transportation to Petitioner should he be prescribed physical therapy for his back.

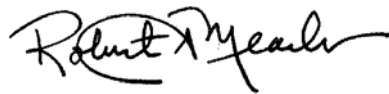
In this case, it is undisputed that at the time Petitioner submitted his prior authorization request he had not shown that he had tried other ways to relieve the pain including using medication, reducing activity and going to physical therapy. Accordingly, Petitioner failed to meet the criteria for the requested epidural steroid injection and the denial must be affirmed.

**DECISION AND ORDER**

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, decides that the MHP properly denied Petitioner's prior authorization request for an epidural steroid injection.

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

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



RM/cg

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**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]