



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.: 16-002376
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.*, and upon Petitioner's request for a hearing.

After due notice, a hearing was held on [REDACTED]. [REDACTED], Petitioner's mother, appeared and testified on Petitioner's behalf. [REDACTED], Appeals Review Officer, represented the Department of Health and Human Services (DHHS or Department). [REDACTED], RN, Review Coordinator MPRO, appeared as a witness for the Department.

ISSUE

Did the Department properly deny Petitioner's prior authorization request for Pediasure?

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, born [REDACTED], who has been diagnosed with autism with sensory issues. (Exhibit 1; Testimony).
2. On [REDACTED], the Department received a prior authorization request for Pediasure 480 calories per day orally for Petitioner. (Exhibit A, p 2; Testimony)
3. Petitioner has been receiving Pediasure through Medicaid since [REDACTED]. (Testimony)

4. A nurse reviewer reviewed the request and determined that Petitioner's TCR (total calories required per day) was 1200 calories and that Petitioner consumes a pureed diet. On [REDACTED], Petitioner weighed 64 pounds. On [REDACTED], Petitioner weighed 71 pounds and was 53 inches tall, with a BMI (body mass index) of 17.8. As such, Petitioner had demonstrated no weight loss. Given the information provided, the nurse reviewer was unable to approve the request for Pediasure, so the request was sent to a physician reviewer. (Exhibit A, p 2; Testimony).
5. The physician reviewer contacted the attending physician. After discussing the case with the attending physician and reviewing the information the nurse reviewer had obtained, the physician reviewer denied the request for Pediasure because Petitioner had not tried blenderized foods without a formula supplementation and because the Petitioner is able to eat. (Exhibit A, p 2; Testimony)
6. On [REDACTED], the Department sent Petitioner a Notification of Denial indicating that the request for Pediasure was denied. (Exhibit A, pp 7-8; Testimony).
7. On [REDACTED], the Michigan Administrative Hearing System (MAHS) received Petitioner's request for hearing. (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 statutes, the Social Welfare Act, the Administrative Code, and the State Plan under Title XIX of the Social Security Act Medical Assistance Program.

Medicaid covered benefits are addressed for the practitioners and beneficiaries in the Medicaid Provider Manual (MPM). Regarding the specific request in this case, *i.e.* Pediasure, the applicable version of the MPM states in part:

2.13 ENTERAL NUTRITION

Enteral nutrition is nutrition administered by tube or orally into the gastrointestinal tract. Enteral nutrition is classified into categories that possess similar characteristics. Categories for enteral nutrition are listed by HCPCS codes on the MDHHS Medical Supplier/DME/Prosthetics and Orthotics Fee Schedule on the MDHHS website. For the appropriate HCPCS code, products are listed on the enteral nutrition product classification list on the website for the Medicare Pricing, Data Analysis and Coding (PDAC)

contractor. If the formula is not listed in the covered HCPCS codes, the provider must contact the PDAC contractor for a coding determination. (Refer to the Directory Appendix for website and contact information.)

2.13.A. ENTERAL NUTRITION (ADMINISTERED ORALLY)

Standards of Coverage

Enteral nutrition (administered orally) may be covered for beneficiaries **under the age of 21** when:

- A chronic medical condition exists resulting in nutritional deficiencies, and a three month trial is required to prevent gastric tube placement; or
- Supplementation to regular diet or meal replacement is required, and the beneficiary's weight-to-height ratio has fallen below the fifth percentile on standard growth grids; or
- Physician documentation details low percentage increase in growth pattern or trend directly related to the nutritional intake and associated diagnosis/medical condition.

For CSHCS coverage, a nutritionist or appropriate pediatric subspecialist must indicate that long-term enteral supplementation is required to eliminate serious impact on growth and development.

For Healthcare Common Procedure Coding System (HCPCS) code B4162, the beneficiary must have a specified inherited disease of metabolism identified by the International Classification of Diseases (ICD).

For beneficiaries **age 21 and over**:

- The beneficiary must have a medical condition that requires the unique composition of the formula nutrients that the beneficiary is unable to obtain from food; or
- The nutritional composition of the formula represents an integral part of treatment of the specified diagnosis/medical condition; or

- The beneficiary has experienced significant weight loss.

For Healthcare Common Procedure Coding System (HCPCS) code B4157, the beneficiary must have a specified inherited disease of metabolism identified by the International Classification of Diseases (ICD).

Documentation

Documentation must be less than 30 days old and include:

- Specific diagnosis/medical condition related to the beneficiary's inability to take or eat food.
- Duration of need.
- Amount of calories needed per day.
- Current height and weight, as well as change over time. (For beneficiaries under 21, weight-to-height ratio.)
- Specific prescription identifying levels of individual nutrient(s) that is required in increased or restricted amounts.
- List of economic alternatives that have been tried.

For continued use beyond 3-6 months, **the CSHCS Program requires** a report from a nutritionist or appropriate pediatric subspecialist.

PA Requirements PA is required for all enteral formula for oral administration.

The following HCPCS codes require authorization via a telephone authorization process:

B4034 B4035 B4036 B4081 B4082 B4083

B4087 B4088 B4102 B4149 B4150 B4152

B4153 B4154 B4155 B4157 B4158 B4159

B4160 B4161 B4162 B9000 B9002 B9998

Refer to the Directory Appendix for Telephone Prior Authorization Contractor information.

1.10 NONCOVERED ITEMS

Items that are not covered by Medicaid include, but are not limited to:

- Adaptive equipment (e.g., rocker knife, swivel spoon, etc.)
- Air conditioner
- Air purifier
- Custom seating for secondary and/or transport chairs
- Devices used for play, pre-mobility development, or exercise are not considered pediatric mobility devices for the purpose of reimbursement and are not covered (e.g., jet mobile, ready racer, creepster crawler)
- Enteral formula to accommodate psychological or behavioral conditions, food preferences, allergies, loss of appetite, or noncompliance with a specialized diet

*Medicaid Provider Manual
Medical Supplier Chapter
January 1, 2016, pp 37-39, 19
Emphasis added*

The Department's witness testified that Petitioner's request for Pediasure was denied pursuant to the above-referenced policies from the Medicaid Provider Manual (MPM). Specifically, the Department's witness indicated that Petitioner did not meet the requirement that his weight-to-height ratio had fallen below the fifth percentile on standard growth grids, as Petitioner's BMI was not below the fifth percentile. The Department's witness indicated that Petitioner had been receiving Pediasure since [REDACTED] according to their records and that if a patient is able to eat, as Petitioner is, prior authorization requests are periodically referred to a physician reviewer for review.

Petitioner's mother testified that it makes sense that Petitioner had not lost weight during the period cited by the Department because he was receiving Pediasure during that period. Petitioner's mother indicated that autism is a disability and part of that disability includes sensory issues with food. Petitioner's mother argued that it was unfair and unjust to remove Petitioner from Pediasure now just to see if he will lose weight because autism is a disability and you would not ask a disabled person who needed a wheelchair to go without the wheelchair to prove that he needed a wheelchair. Petitioner's mother testified that besides the Pediasure, Petitioner will only eat apple sauce (occasionally), almond milk, pop tarts, and pizza rolls. Petitioner's mother indicated that she has tried other blenderized foods in the past, including pureed vegetables, protein shakes, baby foods, and cereals, but Petitioner will not eat them. Petitioner's mother testified that the woman at her pediatrician's office who called in the prior authorization request was new and did not properly present Petitioner's full medical condition.

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

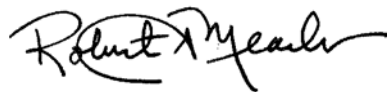
Given the record and available information in this case, the undersigned Administrative Law Judge finds that Petitioner has failed to meet his burden of proof and that the Department's decision must therefore be affirmed. Here, Petitioner did not meet the policy requirements for continued use of Pediasure because his weight-to-height ratio had not fallen below the fifth percentile on standard growth grids. Petitioner also failed to show that at the present time a trial of blenderized foods without the Pediasure supplement would not meet his nutritional needs. While the undersigned is sympathetic to Petitioner's mother's argument that the reason Petitioner is not losing weight is because of the Pediasure, the Department is required by policy to review each prior authorization request and make sure that it conforms to Medicaid policy. Here, the request did not meet policy requirements and was properly denied. If Petitioner's mother believes that her pediatrician's office did not provide complete and accurate information to the Department during the prior authorization request, she can ask her pediatrician's office to submit another more complete request. However, based on the information the Department had at the time the decision was made, that decision was proper.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department properly denied Petitioner's prior authorization request for Peditasure.

IT IS THEREFORE ORDERED THAT:

The Department'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

Petitioner

[REDACTED]

Agency Representative

[REDACTED]

DHHS Department Rep.

[REDACTED]

DHHS -Dept Contact

[REDACTED]