



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: December 14, 2016
MAHS Docket No.: 16-009689
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 hearing filed on the minor Petitioner's behalf.

After due notice, a telephone hearing was held on November 22, 2016. [REDACTED] Petitioner's father, appeared and testified on Petitioner's behalf through the use of an interpreter. [REDACTED], Petitioner's mother, was also present during the hearing. [REDACTED], Appeal and Grievance Coordinator, appeared and testified on behalf of Molina Healthcare, the Respondent ([REDACTED]). [REDACTED], [REDACTED] and [REDACTED], also testified as a witness for Respondent.

ISSUE

Did Respondent properly deny Petitioner's prior authorization request for a spectroscopy?

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 12).
2. On or about June 29, 2016, Respondent received a prior authorization request submitted on Petitioner's behalf and requesting both Magnetic Resonance Imaging (MRI) of the brain and a Magnetic Resonance Spectroscopy (MRS) for Petitioner. (Exhibit A, page 12-18).

3. As provided on the prior authorization request form, Petitioner had been diagnosed with aggressive behavior, developmental regression, global delay and autism. (Exhibit A, pages 12).
4. With respect to the reason for the requested tests, Petitioner's doctor also indicated in the supporting documentation attached to the request that: "Given the global developmental delay, I would request for further evaluation including MRI brain with MRS." (Exhibit 17).
5. On July 1, 2016, Respondent sent written notice that the request for a MR spectroscopy was denied. (Exhibit A, pages 19-23).
6. Regarding the reason for the denial, the notice provided:

Your child's provider ordered a special test (SPECT scan) of the brain. The test is not approved. A Molina Healthcare doctor looked at this request using standard and accepted rules. The information shows that your child has a speech problem. It does not show a medical need for this test. This test is considered investigational. There are not enough studies in medical literature showing that this test will improve health care decisions or health outcomes. Your child's provider must show medical need before this request can be approved. Please talk to your child's provider about what else can be done. (CRITERIA USED FOR DECISION: InterQual Guidelines; CP: Imaging, Subset: Imaging, Brain; 2015.

Exhibit A, page 19

7. On [REDACTED], Petitioner underwent an MRI of the brain without contrast and an MR spectroscopy. (Exhibit A, pages 5-6).
8. The spectroscopy was unremarkable. (Exhibit A, page 6).
9. On July 22, 2016, the Michigan Administrative Hearing System (MAHS) received the request for hearing filed in this matter regarding the denial of Petitioner's prior authorization request. (Exhibit A, pages 2-3).

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, Respondent has developed prior authorization requirements and utilization management and review

criteria. In particular, as testified to by Respondent's witness and provided in its exhibit, Respondent uses InterQual Guidelines. Respondent's Medical Director also testified that, with respect to the spectroscopy requested in this case, those guidelines only identify a limited number of clinical scenarios where the procedure would be approved and that all such scenarios require the beneficiary having either a brain tumor or seizures. According to Respondent's Medical Director, performing the test for any other reason would be merely investigational or experimental, and would therefore not be covered by Respondent. He further testified that, as Petitioner's request was not based on her having a brain tumor or seizures, it had to be denied.

In response, Petitioner's father testified that Petitioner has medical issues, including seizures and that her doctor therefore ordered the requested test due to Petitioner's seizures. Petitioner's father also testified that, even with the denial by Respondent, the doctor insisted on the MRI and spectroscopy and they were subsequently performed. Petitioner's father further noted that Petitioner's family has not been billed for the spectroscopy.

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. The prior authorization form and its supporting documentation only identified Petitioner's aggressive behavior, developmental regression, global delay and autism as the basis for requesting the spectroscopy while the report issued following its completion similarly identified the reason for the exam as Petitioner's global developmental delay. However, none of those diagnoses warrant the requested spectroscopy under the applicable guidelines. Moreover, while seizures can be the basis for imaging of the brain and Petitioner has been diagnosed with seizures, Petitioner's seizures were never identified as the basis for the request in this case and need not have been considered by Respondent. Accordingly, based on the submitted request and the applicable policies, Petitioner has failed to meet her burden of proof and the denial of her 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 a spectroscopy.

IT IS, THEREFORE, ORDERED that:

The Respondent's decision is **AFFIRMED**

SK/tm



Steven Kibit
Administrative Law Judge

[REDACTED]
[REDACTED]

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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