



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

Date Mailed: October 19, 2016
MAHS Docket No.: 16-009831
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 Petitioner's request for a hearing.

After due notice, a telephone hearing was held on September 15, 2016. Petitioner appeared and testified on his own behalf. [REDACTED], a Case Worker with the [REDACTED], also testified as a witness for Petitioner. Attorney [REDACTED] represented [REDACTED], the Respondent Medicaid Health Plan (MHP). [REDACTED], Appeals Coordinator, testified as a witness for Respondent. [REDACTED], Manager of Appeals Section, was also present during the hearing for Respondent.

ISSUE

Did Respondent properly deny Petitioner's request for payment for services rendered outside of the country?

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 Medicaid beneficiary who is enrolled in the Respondent MHP. (Testimony of [REDACTED]).
2. In November of 2014, Petitioner received emergency medical services at [REDACTED]. (Testimony of Petitioner).
3. Both Petitioner and [REDACTED] contacted Respondent and

submitted invoices to Respondent in attempt to have Respondent pay for the medical services provided. (Testimony of Petitioner; Testimony of [REDACTED]
[REDACTED] Testimony of [REDACTED])

4. Respondent declined payment on the basis that it does not pay for care provided outside of the United States of America. (Testimony of [REDACTED]
[REDACTED])
5. [REDACTED] has also billed Petitioner for a total of [REDACTED] for the medical services. (Exhibit 1, pages 8-9).
6. On July 25, 2016, the Michigan Administrative Hearing System (MAHS) received the request for hearing filed by Petitioner in this matter. (Exhibit 1, pages 1-30).

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, April 1, 2016 version
Medicaid Health Plans Chapter, page 1*

Regarding out-of-country services, the MPM also provides that “MDHHS is prohibited by federal law from issuing Medicaid payment to any financial institution or entity whose address is outside of the United States.” *MPM, April 1, 2016 version, General Information for Providers Chapter, pages 4, 17.*

Similarly, 42 CFR 438.602(i) provides that the State must ensure that any entity with which it contracts through Medicaid “is not located outside of the United States and that no claims paid by an MCO, PIHP, or PAHP to a network provider, out-of-network provider, subcontractor or financial institution located outside of the U.S. are considered in the development of actuarially sound capitation rates.”

Section 6505 of the Affordable Care Act also amended section 1902(a) of the Social Security Act to require that a State shall not provide any payments for items or services provided under the State plan or under a waiver to any financial institution or entity located outside of the United States of American. See 42 USC 1396a(80).

Here, Respondent denied any payment for the medical services provided to Petitioner in Canada pursuant to the above policies, regulations, and statute.

Petitioner bears the burden of proving by a preponderance of the evidence that Respondent erred in denying payment in this case.

Given the available information and applicable policies and laws, Petitioner has failed to meet that burden of proof and the Respondent’s decision must be affirmed. As argued by Respondent, both the MPM and the CFR clearly prohibit payments to entities outside of the United States of America. For example, as cited above, the MPM states both that MHPs must operate consistently with all applicable published Medicaid coverage and limitation policies, and that the Department is prohibited by federal law from issuing Medicaid payment to any financial institution or entity whose address is outside of the United States. Similarly, 42 USC 1396a(80) provides that the State Plan must “provide

that the State shall not provide any payments for items or services provided under the State plan or under a waiver to any financial institution or entity located outside of the United States". [REDACTED] may cite Bridges Administrative Manual (BAM) 402 for the assertion that a Michigan Medicaid beneficiary may receive medical/dental care outside of Michigan, which is true. See BAM 402, page 11. However, even BAM 402 also clearly provides that such care is limited to borderland and beyond borderland areas that are within the United States of America. See BAM 402, pages 11-12.

Petitioner and his witness also argue that the Respondent erred by failing to send proper notice of the denial; failing to communicate with Petitioner and the [REDACTED] medical provider; and failing to make any goodwill attempt to resolve the matter. However, even if true, any such errors do not entitle Petitioner to payment and Petitioner would still have the ultimate burden of showing that payment is proper, which he cannot do for the reasons discussed above. At most, the remedy would just be for Respondent to provide a formal notice of denial so that Petitioner would be made aware of the reason for the denial and of his right to request an administrative hearing.

Both Petitioner and [REDACTED] further ask for an exception to the existing law, but the undersigned Administrative Law Judge is bound by it and cannot grant exceptions or decide this case as a matter of equity. Accordingly, based on the clear policies and laws, the denial of payment for services provided outside of the country in this case was proper.

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 request for payment.

IT IS, THEREFORE, ORDERED that:

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

SK/tm



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

[REDACTED]
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