



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: December 19, 2016
MAHS Docket No.: 16-015125
Agency No.:
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 December 14, 2016. At Petitioner's request, through the use of an interpreter, [REDACTED] from his sponsor family appeared and testified on Petitioner's behalf. [REDACTED], Assistant General Counsel, represented [REDACTED], the Respondent [REDACTED] (MHP). [REDACTED], Director of Appeals and Grievances, testified as a witness for Respondent.

ISSUE

Did Respondent properly deny Petitioner's prior authorization request for hearing aids?

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 was enrolled in the Respondent MHP. (Testimony of Respondent's representative).
2. On November 13, 2016, Respondent received a prior authorization request submitted on Petitioner's behalf by [REDACTED] and requesting hearing aids for Petitioner. (Testimony of Respondent's representative).
3. On November 23, 2016, Respondent sent Petitioner and [REDACTED] written notice that the request was denied. (Exhibit A, pages 5-13).

4. Regarding the reason for the denial, the notice stated that hearing aid services are not a covered Medicaid benefit for enrollees age twenty-one and older. (Exhibit A, page 5).

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. The following subsections describe covered services, excluded services, and prohibited services as set forth in the Contract.

1.1 SERVICES COVERED BY MEDICAID HEALTH PLANS (MHPS)

The following services must be covered by MHPs:

- Ambulance and other emergency medical transportation
- Blood lead services for individuals under age 21
- Certified nurse-midwife services
- Certified pediatric and family nurse practitioner services
- Childbirth and parenting classes
- Chiropractic services
- Diagnostic lab, x-ray and other imaging services
- Durable medical equipment and medical supplies
- Emergency services
- End Stage Renal Disease (ESRD) services
- Family planning services
- Health education
- Hearing and speech services
- Hearing aids
- Home health services
- Immunizations
- Inpatient and outpatient hospital services
- Intermittent or short-term restorative or rehabilitative nursing care (in or out of a facility) for up to 45 days
- Medically necessary transportation for enrollees without other transportation options
- Medically necessary weight reduction services
- Mental health care (up to 20 outpatient visits per calendar year)
- Out-of-state services authorized by the MHP
- Outreach for included services, especially pregnancy-related and well-child care
- Pharmacy services
- Podiatry services
- Practitioner services (such as those provided by physicians, optometrists, or oral-maxillofacial surgeons)
- Prosthetics and orthotics
- Therapies (speech, language, physical, occupational)

- Tobacco cessation treatments, including pharmaceutical and behavior support
- Transplant services
- Transportation for medically necessary covered services
- Treatment for sexually transmitted disease (STD)
- Vision services
- Well child/EPSDT for individuals under age 21

The covered services provided to Healthy Michigan Plan enrollees under the contract include all those listed above and the following additional services:

- Additional preventive services required under the Patient Protection and Affordable Care Act as outlined by MDHHS
- Habilitative services
- Dental services
- Hearing aids for persons 21 and over

*MPM, October 1, 2016 version
Medicaid Health Plans Chapter, pages 1-2
(Italics and underline added for emphasis)*

Regarding Hearing Aid Dealers, the MPM also notes that: “As required by Executive Order 2009-22, effective for dates of service on and after 07/01/2009, hearing aids are no longer payable for beneficiaries age 21 and older.” *MPM, October 1, 2016 version, Hearing Aid Dealers Chapter, page i.*

Here, Respondent denied Petitioner’s request for hearing aids pursuant to the above policies and on the basis that hearing aids are not a covered benefit under his insurance because he is over the age of 20.

In response, Petitioner’s representative testified that they were not even sure what the hearing was about, but that Petitioner was denied hearing aids by Respondent and still needs them. She also testified that, since the denial, Petitioner has switched health plans and they are trying to work with his new plan.

Petitioner bears the burden of proving by a preponderance of the evidence that Respondent erred in denying the request for hearing aids.

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. It is undisputed in this case that Petitioner is hearing impaired. However, it is also undisputed that

Petitioner is more than twenty-years-old and the above policies clearly provide that Medicaid and MHPs do not cover hearing aids for those aged 21 and older. While hearing aids for persons 21 and over may be covered by the MHP to Healthy Michigan Plan enrollees, those are expressly identified as an “additional” service for such enrollees and Petitioner is not so enrolled. Accordingly, the Respondent’s actions were in conformity with the applicable laws and policies and its decision 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 hearing aids.

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]
[REDACTED]
[REDACTED]
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