



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: July 5, 2017
MAHS Docket No.: 17-004210
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 upon the Petitioner's request for a hearing.

After due notice, and an adjournment granted at Petitioner's request, a telephone hearing was held on June 6, 2017. Petitioner appeared and testified on his own behalf. Attorney [REDACTED] represented Respondent Aetna Better Health of Michigan, a Medicaid Health Plan (MHP). [REDACTED], Medical Director, and [REDACTED], Grievance and Appeals Analyst, testified as witnesses for Respondent. [REDACTED], Chief Operating Officer, was also present during the hearing for Respondent.

Petitioner did not submit any exhibits during the hearing. Respondent submitted six exhibits that were admitted into the record:

- Exhibit 1: Denial Determination and Denial Letters
- Exhibit 2: Request for Hearing
- Exhibit 3: eviCore Spine Imaging Guidelines
- Exhibit 4: Clinical Information
- Exhibit 5: Excerpt from Healthy Michigan Chapter of Medicaid Provider Manual
- Exhibit 6: Excerpt from General Information for Providers Chapter of Medicaid Provider Manual

ISSUE

Did Respondent properly deny Petitioner's request for magnetic resonance imaging (MRI) of the cervical spine?

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 enrolled in the Respondent MHP. (Exhibit 4, pages 1-2).
2. On March 15, 2017, Respondent received a prior authorization request for an MRI of the cervical spine without contrast submitted on Petitioner's behalf by his doctor. (Exhibit 4, pages 1-17).
3. The prior authorization request and supporting documentation provided that the MRI was being requested due to Petitioner's diagnosis of cervical radiculitis. (Exhibit 4, pages 1-5).
4. Medical documentation attached to the prior authorization request also identified diagnoses of degenerative disc disease; lumbar spinal stenosis; labral tear of shoulder; paresthesis of right leg; carpal tunnel syndrome of left and right wrist; and ulnar neuropathy at elbow of left upper extremity. (Exhibit 4, page 4).
5. The attached documentation further provided that Petitioner has received or undergone joint injections, MRIs of the left shoulder and lumbar spine, and an electromyography (EMG) for hand numbness. (Exhibit 4, pages 7-12).
6. On March 16, 2017, Respondent also sent Petitioner's physician written notice that the prior authorization request for an MRI of the cervical spine was denied. (Exhibit 1, pages 16-24).
7. Regarding the reason for the denial, the notice to Petitioner's physician stated:

Based on eviCore Spine Imaging Guidelines, we are unable to approve the requested procedure. Spinal Imaging is not generally necessary during the first six weeks of symptoms except when a "red flag" finding is noted. MRI might be supported in the evaluation of suspected or known spinal disease with one of the following: 1) failure to improve after a recent (within 3 months) 6 week trial of physician-guided clinical care (treatment or observation) with clinical re-evaluation, or 2) any signs or symptoms such as significant motor weakness, recent

malignancy or infection, cauda equine syndrome, for which conservative treatment is not needed. The clinical information received fails to support meeting these requirements and, therefore, the requested procedure is not indicated at this time.

Exhibit 1, page 16

8. That same day, Respondent also sent Petitioner written notice that the prior authorization request for an MRI of the cervical spine was denied. (Exhibit 1, pages 25-32).
9. Regarding the reason for the denial, the notice to Petitioner stated:

Based on eviCore Spine Imaging Guidelines, we are unable to approve the study your doctor requested. Your records show that you have back and/or neck pain. They also show a request for a magnetic resonance imaging (MRI) scan of your spine. This is a detailed picture study. An MRI scan is supported for your type of pain if one of the following applies to you. One, you failed to improve following a recent (within 3 months) 6 week trial of doctor prescribed treatment and/or observation, and you had follow up contact with your doctor to assess your progress after the 6 weeks. Follow up contact may be done by phone, mail, or messaging. Two, you have severe weakness. Three, you had a recent tissue sample taken for lab testing (biopsy) result that was not normal. Four you had a recent infection. Five, you had cancer in the recent past. Six, you had damage to your cauda equine (a bundle of nerve roots at the lower end of the spinal cord) causing loss of function of the nerve roots at the bottom of your spine. Your records do not show that one or more of these apply to you. We have told your doctor about this. Please talk to your doctor about this. Please talk to your doctor if you have questions.

Exhibit 1, page 25

10. On April 4, 2017, the Michigan Administrative Hearing System received the request for hearing filed in this matter by Petitioner regarding the denial of his prior authorization request. (Exhibit 2, pages 1-3).

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 . . .

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, January 1, 2017 version
Medicaid Health Plans Chapter, page 1
(Emphasis added by ALJ)*

Pursuant to the above policy and its contract with the Department, the MHP has developed prior authorization requirements and utilization and management and review criteria. In particular, as testified to by Respondent's Medical Director and provided in its exhibit (Exhibit 3, pages 1-6), Respondent uses eviCore Healthcare Spine Imaging Guidelines.

Respondent's Medical Director also testified that, with respect to MRIs of the cervical spine, those guidelines identify specific criteria that must be met before the procedure is approved. In particular, she noted that a recent failure of more conservative treatment, that was doctor prescribed and that lasted for at least six weeks, is generally required. Other criteria that could warrant an approval included severe weakness, abnormal biopsy results, recent infections, cancer in the recent past, or damage to the cauda equine that caused a loss of function in the nerve roots. Respondent's Medical Director further testified that none of that specific criteria was met in this case and that the request had to be denied. She also noted that Petitioner could have the request resubmitted if he has additional or updated information to provide regarding the need for the test.

Respondent's Grievance and Appeals Analyst also testified that she spoke with a representative from Petitioner's physician's office, who indicated that the office had no further clinical information to provide.

In response, Petitioner testified that he has seen his doctor for over two years and they have tried multiple methods of treating Petitioner's medical issues, including EMGs, injections, and physical therapy. He also testified that the need for the requested MRI is shown by his diagnoses and the results of the other MRIs that were performed in January of 2017.

Petitioner bears the burden of proving by a preponderance of the evidence that Respondent erred in denying his prior authorization request. Moreover, the undersigned Administrative Law Judge is limited to reviewing Respondent'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 Respondent's decision must be affirmed. It is undisputed that Petitioner has been diagnosed with cervical radiculitis and that his doctor prescribed an MRI, but that alone does not justify the requested procedure under the applicable guidelines and the prior authorization request was not supported by any evidence demonstrating that Petitioner met the remaining criteria identified in the applicable guidelines, in particular the requirement that a patient show the failure of a recent six-week trial of physician-directed treatment and observation. Petitioner asserts that he has tried physical therapy in the past without success, but no such therapy is identified in documentation accompanying the prior authorization request and none of the past treatment that is identified is connected directly to his cervical radiculitis or any need for an MRI of the cervical spine.

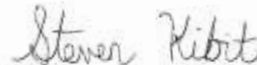
To extent that Petitioner has additional or updated information to provide that would demonstrate the need for the requested procedure, he and his doctor are free to have a new prior authorization submitted along with that information. With respect to the decision at issue in this case however, Petitioner has failed to meet his burden of proof and the denial of his 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 MRI of the cervical spine.

IT IS, THEREFORE, ORDERED that:

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



SK/db

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]

Community Health Rep

[REDACTED]

Petitioner

[REDACTED]

Agency Representative

[REDACTED]