



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: April 26, 2017
MAHS Docket No.: 17-002780
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 42 CFR 431.200 *et seq.*, upon the Petitioner's request for a hearing.

After due notice, a hearing was held on April 18, 2017. Petitioner appeared and testified on her own behalf.

Janice Balog, Paralegal, and Dr. Rosenbaum, Chief Medical Director, appeared on behalf of the DHHS's subcontractor for the Medicaid program, United Healthcare Community Plan of Michigan, Respondent Medicaid Health Plan (MHP)

ISSUE

Did the MHP properly deny Petitioner's prior authorization request for the medication Victoza?

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 47 year-old Medicaid beneficiary, who is a beneficiary of the welfare Medicaid program. (Exhibit A; Testimony)
2. On or about March 1, 2017, the MHP received a prior authorization request submitted on behalf of Petitioner by her doctor requesting the medication Victoza. (Exhibit A.2).
3. On March 1, 2017 Petitioner's request was denied due to not meeting coverage criteria.

4. A Level I Member Appeal was upheld on the grounds that the request did not meet MHP coverage criteria. (Exhibit A.; Testimony)
5. On March 8, 2017, the Michigan Administrative Hearing System (MAHS) received Petitioner's request for hearing. (Exhibit A.4)

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 statute, the Social Welfare Act, the Administrative Code, and the State Plan under Title XIX of the Social Security Act Medical Assistance Program.

In 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 covered services pursuant to its contract with the Department:

The Michigan Department of Community Health (MDCH) 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 MDCH 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.

*MPM, April 1, 2016 version
Medicaid Health Plan Chapter, page 1
(Emphasis added by ALJ)*

Similarly, the MHP's contract with the Department provides:

The Contractor may have a prescription drug management program that includes a drug formulary. DCH may review the Contractor's formularies regularly, particularly if enrollee complaints regarding access of care have been filed regarding the formulary. The Contractor must have a process to approve physicians' requests to prescribe any medically appropriate drug that is covered under the Medicaid Pharmaceutical Product List (MPPL).

Pursuant to the above policy and its contract with the Department, the MHP has developed a drug management program that includes a drug formulary and provides that its' covered services are subject to the limitations and restrictions described in the MHP's Medicaid agreement, the MPM, Medicaid bulletins, and other directives.

Specific to the case here, the Respondent's evidence indicants on A.16, that in order to be eligible, evidence must show that Petitioner has tried and failed at least 2 antidiabetic agents, as well as have A1 labs of less than a 9 value. (Exhibit A; Testimony).

Petitioner bears the burden of proof by a preponderance of the evidence. After a careful review of the credible and substantial evidence, Petitioner has not met that burden. Specifically, Petitioner did not come forth with evidence to show that she met the criteria requiring a failure of at least 2 of the listed drugs, as well as lab tests of less than the 9 level.

In this case, the denial of the prior authorization request was based on the fact that the clinical information submitted did not meet the MHP's policy for use of the medication and the medication is not included on the MHP Medicaid Formulary. Specifically, the MHP indicated that the medication was denied because there was no evidence that the request for Victoza met the criteria for MHP Formulary. As such, the evidence supports the denial and this ALJ has no authority to reverse absent contrary evidence, which Petitioner did not submit.

The MHP indicated that Petitioner can reapply with the documentation required for reconsideration.

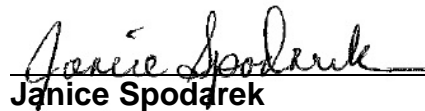
DECISION AND ORDER

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

IT IS THEREFORE ORDERED that:

The Medicaid Health Plan's decision is AFFIRMED.

JS/cg



Janice Spodarek

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.

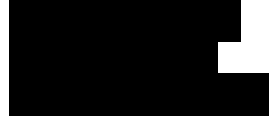
If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30763
Lansing, Michigan 48909-8139

DHHS -Dept Contact

Managed Care Plan Division
CCC, 7th Floor
Lansing, MI 48919

Petitioner



Community Health Rep

United Healthcare Community Plan
26957 Northwestern Highway
Suite 400
Southfield, MI 48033