[redacted]
MI [redacted]

Date Mailed: January 6, 2022
MOAHR Docket No.: 21-005423
Agency No.: [redacted]
Petitioner: [redacted]

ADMINISTRATIVE LAW JUDGE: Robert J. Meade

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, 42 CFR 431.200 *et seq*. and 42 CFR 438.400 *et seq*. upon Petitioner's request for a hearing.

After due notice, a telephone hearing was held on January 5, 2022. Petitioner, [redacted], appeared and testified on her own behalf. Jenifer Panecki, RN, Supervisor, Appeals and Compliance, appeared on behalf of Meridian Health, the Respondent Medicaid Health Plan (Meridian or MHP). Dr. Angela Porter, Interim Chief Medical Officer, appeared as a witness for the MHP.

ISSUE

Did the MHP properly deny Petitioner's prior authorization request for Neulasta Onpro on body injector?

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, born [redacted] 1968, who has been diagnosed with endometrial cancer and who is enrolled in the Respondent MHP. (Exhibit A, pp 8-9; Testimony)

2. On November 3, 2021, the MHP received a prior authorization request from Petitioner's provider for Neulasta Onpro on body injector. (Exhibit A, pp 40-56; Testimony)

3. On November 4, 2021, the MHP sent Petitioner and her provider written notice that the prior authorization request was denied because the records submitted did not meet the coverage criteria. Specifically, the notice indicated that the documentation submitted did not show:

- This service is the standard of care for your health issue.
- The service is not experimental or investigational.
- The service is not being requested for you or your doctor's ease.

(Exhibit A, pp 57-68; Testimony)

4. On November 5, 2021, Petitioner's provider requested an Expedited Internal Appeal and submitted additional documentation. (Exhibit A, pp 69-100; Testimony)

5. On November 5, 2021, the MHP sent Petitioner's Internal Appeal request out for an independent review. In upholding the MHP's denial of Petitioner's request, Dr. David Masiello, MD, Specialty: Oncology, found, in relevant part:

> Per National Comprehensive Cancer Network (NCCN) guidelines, carboplatin + Taxol is considered low-risk for febrile neutropenia (FN) and the routine use of prophylactic granulocyte-colony stimulating factor (GCSF) is not supported for low risk regiments. In addition, the use of Neulasta OnPro is one of convenience and the same benefit can be achieved with a lower cost alternative such as Udenyca or Fulphila.

(Exhibit A, pp 101-104)

6. On November 5, 2021, the MHP sent Petitioner a Notice of Internal Appeal Decision, which upheld the denial of Petitioner's prior authorization request. (Exhibit A, pp 105-115; Testimony)

7. On November 19, 2021, the Michigan Office of Administrative Hearings and Rules (MOAHR) received Petitioner's request for hearing. (Exhibit A, pp 1-34)

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 statutes, 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 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.
>
> *Medicaid Provider Manual*
> *Medicaid Health Plan Chapter*
> *October 1, 2021, p 1*
> *(Emphasis added)*

With regard to medical necessity, Meridian policy indicates, in part:

> I. It is the policy of Meridian Health affiliated with Centene Corporation that Meridian will use the following criteria to determine the medical necessity of specific items and services:
>
> A. Consistent with the symptoms or diagnoses of the illness or injury under treatment.

B. Necessary and consistent with generally accepted professional medical standards (i.e., not experimental or investigational)

C. Not furnished primarily for the convenience of the patient, caregiver, the attending physician, or another physician or supplier.

D. Furnished at the most appropriate level that can be provided safely and effectively to the patient.

E. Evidence that a similar outcome cannot be achieved through a lower-cost medically necessary alternative.

II. In making the determination of medical necessity, Meridian will use current evidence based guidelines published by specialists listed in the American Board of Medical Specialties, Nationally recognized organizations such as National Guideline Clearinghouse, and Medicare Local and National Coverage Determinations. Additionally, Meridian will defer to coverage explicitly stated in the provider manual, or published on the State Medicaid Website.

(Exhibit A, pp 116-119, Emphasis added)

In this case, the denial of the prior authorization request was based on the MHP's determination that the treatment 1) was not necessary and consistent with generally accepted medical standards, (i.e. not experimental or investigational); 2) was furnished primarily for the convenience of the patient, caregiver, the attending physician, or another physician or supplier; and 3) was not the lowest cost medically necessary alternative.

Petitioner testified that she understood the part about having to use the cheapest alternative to save money for the state. However, Petitioner indicated that her prior insurance, when she was working, did cover this treatment and she feels like now that she has lost everything and had to go on Medicaid, she is being forced into getting substandard care. Petitioner testified that the day after chemotherapy she was feeling sick and puking, so having to drive to the hospital to get the treatment, especially with COVID rates so high, is beyond her comprehension. Petitioner indicated that while it is a one hour drive each way to the hospital in Traverse City, they have arranged for her to get the treatment at a local hospital, that is only a 25-minute drive each way.

Given the above policy and evidence, Petitioner has failed to prove by a preponderance of the evidence that the MHP erred in denying the prior authorization request for Neulasta Onpro. First, the MHP did ultimately determine that Petitioner can receive the medication requested; she just must travel to the hospital to receive the medication via injection as opposed to getting the injection automatically at home via the Neulasta

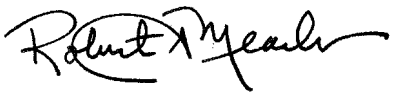
Onpro. As such, it cannot be said that the treatment itself is not medically necessary, or contrary to the standard of care. However, there is a less costly method to deliver the medication than the requested Neulasta Onpro, i.e., an in-person injection. And while this is undoubtedly less convenient for Petitioner, policy clearly provides that a medication or treatment cannot be approved primarily for the convenience of the patient. Therefore, given that there is a less costly alternative, and the fact that the requested delivery method via Neulasta Onpro is strictly for the convenience of the patient, the MHP properly denied Petitioner's request.

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 Neulasta Onpro on body injector.

IT IS THEREFORE ORDERED that:

The Medicaid Health Plan's decision is AFFIRMED.



RM/dh

Robert J. Meade
Administrative Law Judge

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 Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR 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. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

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

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

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Petitioner	[redacted] MI [redacted]
Community Health Rep	Katie Feher c/o Meridian Health Plan of Michigan Inc. 1 Campus Martius, Suite 700 Detroit, MI 48244