



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

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MI [REDACTED]

Date Mailed: April 6, 2022
MOAHR Docket No.: 22-000886
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Corey Arendt

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 5, 2022. Petitioner appeared on her own behalf. Katie Feher, Senior Manager of Operations, appeared on behalf of Respondent, Meridian Health (Department). Dr. Angela Porter, Senior Medical Director, appeared as a witness for the Department.

Exhibits:

Petitioner	None
Department	A – Hearing Summary

ISSUE

Did the Medicaid Health Plan properly deny Petitioner's request for a spinal cord stimulator?

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 enrolled with Department. (Exhibit A).
2. On November 18, 2021, Petitioner's medical provider, provided Respondent with a prior authorization request seeking a spinal cord stimulator insertion. (Exhibit A).
3. On November 27, 2021, Department sent Petitioner a Notice of Adverse Determination. The notice indicated Petitioner's request was being denied. The notice specifically stated:

The request for an implanted device to manage your chronic pain cannot be approved. Your medical records were carefully reviewed. More information about your diagnosis and planned surgery is needed. This needs to include recent notes showing you have been seen by your doctor. It also needs to show that your doctor discussed surgery with you and signed off on the plan. Your records do not have these things. Please talk to your doctor about treatment options, they have received a copy of this letter as well. This decision was based on the medical policies for Spinal Cord Neurostimulator (OR-1015) and Medical Record Documentation (GN-1002). (Exhibit A, p 43).

4. On or around January 18, 2022, Department received an Internal Appeal Form. (Exhibit A).
5. On February 1, 2022, Department sent Petitioner a Notice of Internal Appeal Decision Denial. The notice specifically stated:

We received a request for an implanted tool to help with your chronic pain (spinal cord neurostimulator, trial). The notes show you have pain in your low back. The notes show the pain is worse with bending, twisting, and activity. The notes show you have tried medication, home therapy, and heat to help your pain. Per the Turning Point Clinical Guidelines GN-1002 Medical Record Documentation and OR-1015 Spinal Cord Neurostimulator, the notes must show:

- You had a surgery of your back which did not help your pain (failed back surgery syndrome) with pain in your leg that does not go away (intractable).
- You have had pain in your leg after a surgery, injury, or other health issue that will not get better (complex regional pain syndrome).
- Doctor's notes that show the planned surgery and why you need it.

The notes did not show this. Therefore, the request remains denied. (Ex A, pp 193-194).

6. On or around February 28, 2022, Petitioner requested a Medicaid fair hearing. (Exhibit A).
7. At all times relevant to this proceeding, Petitioner has been employed as a cashier/stocker at a gas station working approximately 30-40 hours a week in 8-hour shifts. (Testimony.)

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 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.¹

¹ MPM, Medicaid Health Plans, July 1, 2019, p 1.

In this case, the prior authorization request indicated Petitioner is seeking coverage of spinal cord stimulator insertion.

The medical supplier chapter of the MPM addresses surgical procedures:

SECTION 11 – SURGERY – GENERAL

Medicaid covers medically necessary surgical procedures.²

In this case, the Department also utilized Turning Point Clinical Guidelines GN-1002 Medical Record Documentation and OR-1015 Spinal Cord Neurostimulator guidelines (Exhibit A, pp 202-210). The criterion lists several clinical scenarios for the procedure.

As noted above, MHPs must operate consistently with all applicable published Medicaid coverage and limitation policies but are allowed to develop prior authorization requirements and utilization management and review criteria that differ from Medicaid requirements. The Turning Point Clinical Guidelines appear to be consistent with the policy from the Practitioner chapter of the MPM to provide medically necessary surgical procedures.

The Department asserts that the submitted documentation did not establish that Petitioner met the criteria for the requested spinal cord stimulator insertion. Both the initial denial as well as the local appeal denial specifically address why the submitted documentation did not meet criteria

Petitioner argued she suffers from chronic severe lumbar pain and is unable to care for her two children due to the pain. Petitioner, however, acknowledged working approximately 30 to 40 hours a week in 8 hour shifts as a cashier and stocker in a gas station.

Therefore, based on the record presented, I find sufficient evidence to affirm the Department's decision to deny the Petitioner's request for a spinal cord stimulator placement.

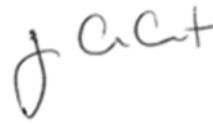
² MPM, Practitioner, July 1, 2019, p 46.

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, decides that the Department properly denied the Petitioner's request for spinal cord stimulator insertion based on the information available at that time.

IT IS, THEREFORE, ORDERED that:

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

A handwritten signature in dark ink, appearing to read "Corey Arendt", is written above a horizontal line.

Corey Arendt
Administrative Law Judge

CA/dh

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

DHHS -Dept Contact

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

Petitioner

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Community Health Rep

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