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Date Mailed: September 5, 2023
MOAHR Docket No.: 23-003851
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 Petitioner's request for a hearing.

After due notice, a telephone hearing was held on August 16, 2023. Michelle Biggs, a registered medical assistant (RMA) at Healthwest, appeared and testified on Petitioner's behalf. Brett Parshall, Manager in Appeals Department, appeared and testified on behalf of Meridian, the Respondent Medicaid Health Plan (MHP).

During the hearing, Respondent submitted an evidence packet that was admitted into the record without objection as Exhibit A, pages 1-53. No other proposed exhibits were submitted.

ISSUE

Did Respondent properly deny Petitioner's request for a L-Methylfolate tablets?

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 is enrolled in the Respondent MHP. (Exhibit A, page 12).

2. On April 28, 2023, Respondent received a prior authorization request for L-Methylfolate 15 mg tablets submitted on Petitioner's behalf by his doctor. (Exhibit A, pages 12-14).

3. L-Methylfolate is not a covered drug on the Michigan Pharmaceutical Product List (MPPL). (Exhibit A, pages 50-51; Testimony of Respondent's representative).

4. The same day Respondent received the prior authorization request, Respondent sent Petitioner written notice that the request had been denied. (Exhibit A, pages 16-24).

5. With respect to the reason for the denial, the notice to Petitioner stated in part:

> A pharmacist has reviewed this request and determined that it does not meet Meridian coverage criteria. L-METHYLFOLATE Tablet is not a covered benefit on the Meridian Medicaid Formulary (Meridian list of covered drugs). Please discuss with your physician an alternative medication on the Meridian Formulary.

Exhibit A, page 17

6. On May 18, 2023, Petitioner, through her provider, filed an Internal Appeal with Respondent regarding that decision. (Exhibit A, pages 25-39).

7. On June 12, 2023, Respondent sent Petitioner written notice that her Internal Appeal was denied. (Exhibit A, pages 40-49).

8. With respect to the reason for the decision, the notice stated in part:

> **Why did we deny your Internal Appeal?**
>
> A doctor has reviewed all documents sent with this request for L-METHYLFOLATE Tablet. It does not meet the coverage criteria. The request remains denied. It remains denied because L-METHYLFOLATE Tablet is not on the Michigan Pharmaceutical Product List. It is not a covered benefit on the 2023 formulary (plan list of covered drugs). Please talk to your doctor about your plan of care.
>
> The reviewer was not involved in the original decision. Meridian is keeping the first denial decision after this review.

Exhibit A, page 41

9. On July 6, 2023, the Michigan Office of Administrative Hearings and Rules (MOAHR) received the request for hearing filed by Petitioner in this matter regarding Respondent's decision. (Exhibit A, pages 1-9).

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 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.

MPM, April 1, 2023 version
Medicaid Health Plan Chapter, page 1
(Underline added for emphasis)

As allowed by the above policy and its contract with the Department, the MHP has chosen to use its own prior authorization requirements, utilization management, and review criteria. Specifically, as explained by Respondent's witness and demonstrated by its exhibit, Respondent limits its covered drug formulary to the ones covered by the Department and listed on the Michigan Pharmaceutical Product List (MPPL).

With respect to pharmacy products and the MPPL, the MPM provides in part:

> **SECTION 6 – GENERAL NONCOVERED SERVICES**
>
> This section specifies general coverage restrictions. However, drugs in other classes may not be covered. Pharmacies should review the MPPL for specific coverage. When possible, pharmacies are encouraged to suggest alternative covered therapy to the prescriber if a product is not covered.
>
> * * *
>
> **SECTION 7 - MICHIGAN PHARMACEUTICAL PRODUCT LIST**
>
> The Michigan Pharmaceutical Product List (MPPL) identifies the pharmaceutical products that are covered by MDHHS. The MPPL pharmaceutical product coverages may vary by MDHHS program or be limited by age, clinical parameters, and/or gender. The Point of Sale pharmacy claim adjudication also provides coverage information related to a specific beneficiary or prescription.
>
> The MPPL is posted on the PBM's website. (Refer to the Directory Appendix for website information.) Providers must refer to the MPPL for the additions and deletions of drug products. Specific notification of changes will not be issued.
>
> *MPM, April 1, 2023 version*
> *Pharmacy Chapter, pages 14-15*

Here, Respondent denied Petitioner's prior authorization request for L-Methylfolate tablets pursuant to the above policies and on the basis that the requested medication is not covered by Medicaid or Respondent.

In appealing that decision, Petitioner has the burden of proving by a preponderance of the evidence that Respondent erred. Moreover, the undersigned Administrative Law Judge is limited to reviewing Respondent's decision in light of the information that was available at the time the decision was made.

Given the above policy and evidence in this case, Petitioner has failed to satisfy his burden of proof and Respondent's decision must be affirmed.

Petitioner's representative credibly testified that Petitioner has been on L-Methylfolate in the past with successful results, but the decision in this case was not based on medical necessity and, instead, was simply a coverage determination. Moreover, with respect to that coverage determination, Respondent properly found that the tablets were not covered given that Respondent, consistent with all applicable published Medicaid coverage and limitation policies, has limited its coverage of pharmaceutical products to those listed on the Michigan Pharmaceutical Product List (MPPL) just like the MDHHS, and the requested L-Methylfolate tablets are not listed on the MPPL.

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.

IT IS, THEREFORE, ORDERED that:

Respondent's decision is **AFFIRMED.**

Steven Kibit

SK/sj

Steven Kibit
Administrative Law Judge

NOTICE OF APPEAL: Petitioner 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

PROOF OF SERVICE

I certify that I served a copy of the foregoing document upon all parties and/or attorneys, to their last-known addresses in the manner specified below, this 5th day of September 2023.

S. James

S. James
Michigan Office of Administrative Hearings and Rules

Via Electronic Mail:

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