



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA
ACTING DIRECTOR

Date Mailed: December 4, 2023
MOAHR Docket No.: 23-007617
Agency No.: [REDACTED]
Petitioner: [REDACTED]

[REDACTED]
[REDACTED] MI [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 November 28, 2023. Dr. John Wallace, appeared on behalf of Petitioner. Joann Novak, General Counsel, appeared on behalf of the Respondent, Upper Peninsula Health Plan (Department). Rachael Prusi, Director of Pharmacy, and Abigail Wales, Pharmacist, appeared as witnesses for the Department.

Exhibits:

Petitioner	None
Department	A – Hearing Summary

ISSUE

Did the Medicaid Health Plan properly deny Petitioner's request for itraconazole?

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 October 19, 2023, the Department received a prior authorization request for itraconazole that exceeded the quantity limit of 120 capsules per 30 days. The request was received on behalf of Petitioner. (Exhibit A).

3. On October 19, 2023, following receipt of the prior authorization request, the Department reached out to the requesting office and asked for additional clinical evidence and/or literature to support the request, and further inquired whether the requested dosage was medically necessary. (Exhibit A.)
4. On October 20, 2023, the requesting office provided the Department with laboratory results revealing itraconazole levels. (Exhibit A.)
5. On October 20, 2023, the Department issued a negative action notice denying the requested dosage. The notice indicated the information provided did not meet UPHP Medicaid guidelines and exceeded the quantity limit. (Exhibit A.)
6. On October 25, 2023, the Department received from the Petitioner a request for an appeal. Provided with the appeal was a partial copy of an itraconazole dosing schedule from a textbook that as mostly illegible. (Exhibit A.)
7. On October 27, 2023, the Department and Petitioner communicated regarding the request and the need for additional information showing the requested dosage was appropriate in light of the request exceeding the maximum FDA approved and recommended dosing of intraconazole in pediatrics for maintenance dosing. The Department offered the requesting office an opportunity to pend the case for additional information to be submitted, but the office declined the opportunity. (Exhibit A.)
8. On October 27, 2023, following the conversation, the Department upheld the initial denial decision. (Exhibit A.)
9. On November 3, 2023, the Michigan Office of Administrative Hearings and Rules, received from the Petitioner, a request for hearing. (Hearing File.)

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

Pursuant to the above policy and its contract with the Michigan Department of Health and Human Services, the Department has developed prior authorization requirements and utilization and management review criteria. Department policies expressly provide for the medication itraconazole, the maximum quantity limit is 120 capsules (100 mg) per 30 days. The Department policies are exactly the same dosages as found in the Medicaid Health Plan Common Formulary and also fall in line with FDA guidelines.

The evidence presented indicates the documentation provided, failed to show why an increased dosage above the FDA guidelines and policy limits was medically necessary. Furthermore, and more troubling, is the lack of a reason for why the Petitioner did not provide the requested documentation to support their request prior to requesting a Medicaid fair hearing, even when given the express opportunity to do so.

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

Given the available evidence and applicable policies in this case, Petitioner has failed to meet their burden of proof and the Department's decision must be affirmed.

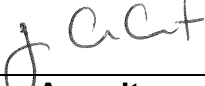
DECISION AND ORDER

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 itraconazole above the maximum threshold provided in policy based on the information available at that time.

IT IS, THEREFORE, ORDERED that:

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

CA/pe



Corey Arendt
Administrative Law Judge
for Elizabeth Hertel, 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 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

Via Electronic Mail:

Petitioner

[REDACTED]
[REDACTED] MI [REDACTED]
[REDACTED]

Community Health Representative

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DHHS Department Contact

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MDHHS-MCPD@michigan.gov

Via First Class Mail:

Authorized Hearing Representative

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