



GRETCHEN WHITMER
GOVERNOR

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

MARLON I. BROWN, DPA
ACTING DIRECTOR

[REDACTED]
[REDACTED] MI [REDACTED]

Date Mailed: December 21, 2023
MOAHR Docket No.: 23-008183
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 and 42 CFR 431.200 *et seq.*, upon Petitioner's request for a hearing.

After due notice, a hearing was held on December 20, 2023. [REDACTED] Petitioner, appeared on her own behalf. Allison Pool, Appeals Review Officer, represented the Department. Jessica Reich, Departmental Analyst, Program Review Division, appeared as a witness for the Department.

ISSUE

Did the Department properly deny Petitioner's provider's prior authorization request for bilateral ankle foot orthotics?

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. (Exhibit A, p 7; Testimony)
2. On September 18, 2023, the Department received a prior authorization request from the medical supply company for bilateral ankle foot orthotics for Petitioner. (Exhibit A, p 18; Testimony)
3. The requested service dates on the prior authorization request were from September 28, 2023 through March 25, 2024. (Exhibit A, p 9; Testimony)
4. On September 28, 2023, the Department sent Petitioner and her provider a Notice of Authorization, approving Petitioner's request. (Exhibit A, pp 9-10; Testimony)
5. Upon receipt of the Notice of Authorization, Petitioner's provider submitted a Change Request to the Department, asking that the authorization period start on September 12, 2024, as opposed to September 28, 2024. (Exhibit A, p 22; Testimony)

6. On October 2, 2023, the Department sent Petitioner and her provider a Notification of Denial, indicating that the prior authorization request was denied because services provided before prior authorization is requested will not be covered unless the beneficiary was not eligible on the date of service and the eligibility was made retroactive. (Exhibit A, pp 7-8; Testimony)
7. On November 22, 2023, the Michigan Office of Administrative Hearings and Rules received Petitioner's hearing request. (Exhibit A, pp 11-14)

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.

The Michigan Department of Health and Human Services (MDHHS) Medicaid Provider Manual states:

1.8.D. RETROACTIVE PRIOR AUTHORIZATION

Services provided before PA is requested will not be covered unless the beneficiary was not eligible on the DOS and the eligibility was made retroactive. If the MDHHS record does not show that retroactive eligibility was provided, then the request for retroactive PA will be denied.

1.12 CHARGING THE BENEFICIARY

The provider may not charge the beneficiary for failure to provide sufficient documentation to support coverage or failure to obtain PA. The provider may charge the beneficiary if the beneficiary waives his right to PA. The provider must maintain on file a document that demonstrates that the beneficiary knew and understood that the waiver of PA would result in the beneficiary's responsibility for payment. In addition, the provider may not charge the beneficiary any copayments (unless permitted by Medicaid) or charges above the Medicaid allowable amount.

*Medicaid Provider Manual,
Medical Supplier Chapter
October 1, 2023, pp 16
Emphasis added*

The Department's witness testified that on September 18, 2023, the Department received a prior authorization request from the provider for bilateral ankle foot orthotics for Petitioner. The Department's witness indicated that the requested service dates on the prior authorization request were from September 28, 2023 through March 25, 2024. The Department's witness testified that on September 28, 2023, she sent Petitioner and her provider a Notice of Authorization, approving Petitioner's request. However, upon receipt of the Notice of Authorization, Petitioner's provider submitted a Change Request to the Department, asking that the authorization period start on September 12, 2024, as opposed to September 28, 2024.

The Department's witness indicated that on October 2, 2023, she sent Petitioner and her provider a Notification of Denial, indicating that the prior authorization request was denied because services provided before prior authorization is requested, will not be covered unless the beneficiary was not eligible on the date of service and the eligibility was made retroactive. The Department witness also noted that the provider cannot charge Petitioner for the orthotics for its failure to timely submit a PA. Petitioner testified that she informed the provider that she only wanted the orthotics if they were fully covered by Medicaid. Petitioner indicated that she waited in the office for some time for the provider to verify coverage and the provider then told her that the orthotics were fully covered. Petitioner indicated that she got concerned when she later received the Department's denial, so she filed the instant appeal.

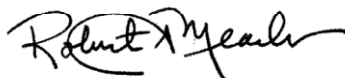
The Medicaid Provider Manual (MPM) specifies that, "Services provided before PA is requested will not be covered unless the beneficiary was not eligible on the DOS and the eligibility was made retroactive. If the MDHHS record does not show that retroactive eligibility was provided, then the request for retroactive PA will be denied." Here, the prior authorization request was made on September 18, 2023 for a start date of September 28, 2023. However, the orthotics were provided to Petitioner on September 12, 2023, prior to the PA being submitted. According to policy, the device could not then be approved because it was delivered prior to the provider obtaining PA. **The medical supplier, however, cannot bill Petitioner for the orthotics per the above policy.** Based on the submitted documentation, the Department's determination to deny coverage for the bilateral ankle foot orthotics must be upheld.

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 provider's request for bilateral ankle foot orthotics based on the available information.

IT IS THEREFORE ORDERED that:

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



Robert J. Meade
Administrative Law Judge

RM/sj

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

PROOF OF SERVICE

I certify that I served a copy of the foregoing document upon all parties, to their last known addresses in the manner specified below, this 21st day of December 2023.

S. James

S. James

**Michigan Office of Administrative
Hearings and Rules**

Via Electronic Mail:

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