



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
DIRECTOR

[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: May 2, 2024
MOAHR Docket No.: 24-002437
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 Petitioner's request for hearing.

After due notice, a telephone hearing was held on April 3, 2024. [REDACTED] Petitioner's mother, appeared and testified on Petitioner's behalf. Brenda Garber, appeared on behalf of Respondent, Blue Cross Complete (Department). Amber Coltrain and Dr. Donald Beam, Medical Director, appeared as witnesses for Department.

ISSUE

Did the Department properly deny Petitioner's prior authorization request for enteral nutrition?

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 Medicaid beneficiary who is enrolled with the Department and who has been diagnosed with other feeding difficulties and other symptoms and signs concerning food and fluid intake. (Exhibit E; Testimony.)
2. On November 21, 2023, Petitioner's provider submitted a prior authorization request on Petitioner's behalf for the approval of the enteral nutrition. (Exhibit A, Exhibit D; Testimony.)

3. On November 30, 2023, the Department sent Petitioner and provider written notice that the prior authorization request was denied. Specifically, the notice indicated:

Your doctor has requested approval for special liquid nutrition for you. You are ■ years old. We did not get recent notes (less than 30 days) with your current height and weight. We were told that you are unable to eat food. We were not told that you are not enough of certain nutrients. We were not told that your weight-to-height ratio is low (below ■ percentile on standard growth charts). We were not told that there has been a low growth increase due to what you are able to eat and your medical condition. We were not told what else had been tried to help you. The prescription we received is more than 30 days old. It does not say what nutrients you need and in what amounts. We were not told how many calories per day you need. This request is denied. It is not medically necessary.¹

4. On or around December 8, 2023, the Department received from Petitioner, an appeal of the denial determination. (Exhibit H.)
5. On January 5, 2024, the Department sent Petitioner, a local level appeal denial. The notice stated the following:

Blue Cross Complete denied your appeal because you are ■ years old. You have autism. You are not failing to thrive. Your BMI was ■ percentile on ■/23. Your doctor asked up to approve a liquid nutrition for you. Your provider sent us a letter. You do not like eating something foods. You are getting feeding therapy to help you. We did not get recent notes (less than 30 days) with your current height and weight. We were not told that you are unable to eat food. (You eat popcorn, Oreos, and French fries from burger king.) You drink sweet tea and apple juice. We were not told that you do not eat enough of certain nutrients. We were not told that your weight-to-height ratio is low (below fifth percentile on standard growth charts). We were not told that there has been a low growth increase due to what you are able to eat and your medical condition. We were not told what else had been tried to help you. Medical necessity has not been met. The denial is upheld. Michigan Department of Health and Human Services (MDHHS) Provider Manual Section 2.13A

¹ Exhibit F, p 1.

Enteral Nutrition (Administered Orally)EPSDT (Early and Periodic Screening, Diagnostic and Treatment).²

6. On March 13, 2024, the Michigan Office of Administrative Hearings and Rules received the request for hearing filed in this matter. (Hearing File).

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.

Pursuant to the above policy and its contract with the Department, the Department has developed prior authorization requirements and utilization management and review criteria.

With regard to Enteral Nutrition, the Medicaid Provider Manual (MPM) provides that covered nutrition is found in the MDHHS Medical Supplier/DME/Prosthetics and Orthotics Fee Schedule on the MDHHS website:

2.13.A ENTERAL NUTRITION (Administered Orally)

Enteral nutrition (administered orally) may be covered for beneficiaries under the age of 21 when:

- A chronic medical condition exists resulting in nutritional deficiencies, and a three-month trial is required to prevent gastric tube placement; or
- Supplementation to regular diet or meal replacement is required, and the beneficiary's weight-to-height ratio has fallen below the fifth percentile on standard growth grids; or
- Physician documentation details low percentage increase in growth pattern or trend directly related to

² Exhibit L, p 2.

the nutritional intake and associated
diagnosis/medical condition.³

Pursuant to the above policies, the Department denied Petitioner's prior authorization request.

Petitioner bears the burden of proving by a preponderance of the evidence that the Department erred in denying the request. Based on the evidence presented, the undersigned Administrative Law Judge finds that Petitioner has failed to meet their burden of proof; and that the Department's decision must therefore be affirmed.

The documentation and testimony provided fail to meet the medical necessity criteria found in 2.13.A above. Specifically, Petitioner has failed to show a chronic medical condition exists resulting in nutritional deficiencies, or that supplementation is required as a result of the Petitioner's weight-to-height ratio falling below the fifth percentile, or that there is a low percentage increase in growth pattern or trend that is directly related to nutritional intake.

While the undersigned can certainly empathize with Petitioner's situation, the undersigned has no equitable authority and cannot ignore clear policy. As such, the Department's decision must be affirmed.

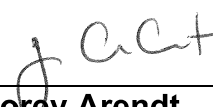
DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly denied the prior authorization request for enteral formula.

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

³ Medicaid Provider Manual, Medical Supplier, October 1, 2023, p 49.

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:

Community Health Representative

Blue Cross Complete of Michigan
4000 Town Center, Ste 300
Southfield, MI 48075
BCCMISFH@mibluexrosscomplete.com

DHHS Department Contact

MDHHS Managed Care Plan Division
Lansing, MI 48933
MDHHS-MCPD@michigan.gov

Via First Class Mail:

Petitioner and Authorized Hearing Representative

[REDACTED]
[REDACTED] MI 4 [REDACTED]