



STATE OF MICHIGAN

GRETCHEN WHITMER
GOVERNOR

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

MARLON BROWN
DIRECTOR

Date Mailed: October 9, 2024
MOAHR Docket No.: 24-008850
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 42 CFR 431.200 *et seq.*, and upon Petitioner's request for hearing.

After due notice, a telephone hearing was held on September 18, 2024. Petitioner appeared and testified on her own behalf, with Jake Rossow, a Senior Advocate with the Otsego County Commission on Aging, assisting her and testifying on her behalf. Allison Pool, Appeals Review Officer, represented the Respondent Department of Health and Human Services (DHHS or Department). Lori Hinkle, State Administrative Manager, testified as a witness for the Department.

During the hearing, the Department submitted an evidence packet that was admitted into the record without objection as Exhibit A, pages 1-38. Petitioner did not submit any proposed exhibits.

ISSUE

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

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 [REDACTED] year-old Medicaid beneficiary. (Exhibit A, page 23).
2. On July 3, 2024, the Department received a prior authorization request for enteral formula submitted on Petitioner's behalf. (Exhibit A, pages 19-30).

3. As part of that request, the medical supplier indicated that Petitioner had been diagnosed with abnormal weight loss and unspecified feeding difficulties. (Exhibit A, page 20).
4. In the Medical Justification for Enteral Therapy form submitted along with the request, a medical provider indicated that formula was being requested, but the provider left blank the sections of the form asking for other economic alternatives tried; Petitioner's body mass index (BMI); and Petitioner's height/weight change over time. (Exhibit A, page 21).
5. Notes from Petitioner's primary care physician indicated that Petitioner had been diagnosed with diarrhea, weight loss, cough, vitamin D deficiency, and an BMI of [REDACTED] (Exhibit A, page 25).
6. On July 3, 2024, the Department sent Petitioner written notice that the prior authorization request had been denied. (Exhibit A, pages 31-32).
7. With respect to the reason for the denial, the notice stated:

The policy this denial is based on is Section 2.13.A of the Medical Supplier chapter of the Medicaid Provider Manual. Specifically:

- The documentation submitted does not support the medical need for the requested enteral formula. Please resubmit with the following: updated height, weight, BMI, economic alternatives, type of diet.
- Please resubmit with medical reason this beneficiary is not able to eat food.
- For specific policy information, please refer section 2.12.A. of the Medical Policy [sic] Manual.

Exhibit A, page 31

8. On August 7, 2024, the Michigan Office of Administrative Hearings and Rules (MOAHR) received the request for hearing filed in this matter regarding that denial. (Exhibit A, pages 5-19).
9. Additional medical information was submitted as part of that request, with notes from Petitioner's primary care provider indicating on July 19, 2024, that Petitioner has been diagnosed with caloric malnutrition and a BMI less than 19. (Exhibit A, page 6).

10. The notes from July 19, 2024, also stated that:

Other supplemental drinks give the pt diarrhea [sic], sever [sic] cramps, and have artificial sweeteners in them and she is allergic to those sweeteners.

Kate Farm is all natural and the only one that pt is able to tolerate which was found by her oncologist because the radiation has changed her throat and the chemo has changed the digestion in her body as well.

Exhibit A, page 7

11. The notes further provided, in an Addenda dated July 31, 2024, that:

[Petitioner] is able to eat a regular diet but is unable to tolerate many things due to breathing issues, GI issues and ongoing nausea. She has tried multiple other economic alternatives such as Ensure and Boost, but is unable to tolerate these also. She has had Kate Farm brand in the past, which is the only thing has been able to tolerate in the past.

Exhibit A, page 17

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.

Medicaid covered benefits are addressed for the practitioners and beneficiaries in the Medicaid Provider Manual (MPM) and, with respect to enteral formula like the kind requested in this case, the applicable version of the MPM states in part:

2.13 ENTERAL NUTRITION

Enteral nutrition is nutrition administered by tube or orally into the gastrointestinal tract. Enteral nutrition is classified into categories that possess similar characteristics. Categories for enteral nutrition are listed by HCPCS codes on the MDHHS Medical Supplier/DME/Prosthetics and Orthotics Fee Schedule on the MDHHS website. For the appropriate HCPCS code, products are listed on the enteral nutrition product classification list on the website for the

Medicare Pricing, Data Analysis and Coding (PDAC) contractor. If the formula is not listed in the covered HCPCS codes, the provider must contact the PDAC contractor for a coding determination. (Refer to the Directory Appendix for website and contact information.)

2.13.A. ENTERAL NUTRITION (ADMINISTERED ORALLY)

Standards of Coverage	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 the nutritional intake and associated diagnosis/medical condition. For CSHCS coverage, a nutritionist or appropriate pediatric subspecialist must indicate that long-term enteral supplementation is required to eliminate serious impact on growth and development. For Healthcare Common Procedure Coding System (HCPCS) code B4162, the beneficiary must have a specified inherited disease of metabolism identified by the International Classification of Diseases (ICD). For beneficiaries age 21 and over:
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	▪ The beneficiary must have a medical condition that requires the unique composition of the formula nutrients that the beneficiary is unable to obtain from food; or ▪ The nutritional composition of the formula represents an integral part of treatment of the specified diagnosis/medical condition; or ▪ The beneficiary has experienced significant weight loss. For Healthcare Common Procedure Coding System (HCPCS) code B4157, the beneficiary must have a specified inherited disease of metabolism identified by the International Classification of Diseases (ICD).
Documentation	Documentation must be less than 30 days old and include: ▪ Specific diagnosis/medical condition related to the beneficiary's inability to take or eat food. ▪ Duration of need. ▪ Amount of calories needed per day. ▪ Current height and weight, as well as change over time. (For beneficiaries under 21, weight-to-height ratio.) ▪ Specific prescription identifying levels of individual nutrient(s) that is required in increased or restricted amounts. ▪ List of economic alternatives that have been tried. ▪ For continued use beyond 3-6 months, the CSHCS Program

	requires a report from a nutritionist or appropriate pediatric subspecialist.
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*MPM, July 1, 2024 version
Medical Supplier Chapter, pages 48-49*

Here, as discussed above, the Department denied a prior authorization request for enteral formula pursuant to the above policies and on the basis that Petitioner had failed to submit all the documentation required to meet the applicable standards of coverage.

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

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

As clearly provided in the above policy, enteral nutrition administered orally may only be approved if specific documentation is provided and the applicable standards of coverage are met; and the record in this case demonstrates that the submitted prior authorization request failed to meet the criteria.

Policy requires that Petitioner had experienced significant weight loss, along with documentation demonstrating a specific diagnosis/medical condition related to her inability to take or eat food; if and how her weight changed over time; and a list of economic alternatives that had been tried.

However, as testified to by the Department's witness and undisputed by Petitioner, the prior authorization request and supporting documentation submitted in this case failed to provide the required documentation, with the provider leaving blank sections of the applicable form and failing to provide information on other economic alternatives tried; Petitioner's BMI; Petitioner's height/weight change over time; and her diet.

Petitioner did provide additional documentation as part of her request for hearing, but as discussed above, the undersigned Administrative Law Judge is limited to reviewing the Department's decision in light of the information available at the time the decision was made. Moreover, even if the documentation was considered, it was still insufficient, with the Department's witness credibly explaining that, while the new documentation identified a significant weight loss and other supplements that had not worked, it still did adequately identify a specific diagnosis/medical condition related to Petitioner's inability to take or eat food.

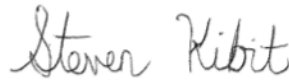
To the extent Petitioner has additional or updated information to provide regarding her need for enteral formula, then she can always have a new prior authorization request submitted in the future along with that information. With respect to the decision at issue in this case however, the Department's decision must be affirmed given the available information and applicable policies.

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, decides that the Department properly denied Petitioner's prior authorization request.

IT IS, THEREFORE, ORDERED that:

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

A handwritten signature in cursive script that reads "Steven Kibit".

Steven Kibit
Administrative Law Judge

SK/sj

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, to their last known addresses in the manner specified below, this 9th day of October 2024.

S. James

S. James

**Michigan Office of Administrative
Hearings and Rules**

Via Electronic Mail:

Agency Representative

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Via First Class Mail:

Petitioner

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[REDACTED] MI [REDACTED]