[redacted]
, MI [redacted]

Date Mailed: February 3, 2020
MOAHR Docket No.: 19-012839
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, 42 CFR 431.200 *et seq*. and 42 CFR 438.400 *et seq*. upon Petitioner's request for a hearing.

After due notice, a hearing was held on January 30, 2020. Petitioner, [redacted], appeared and testified on her own behalf. Kimmel Page, Associate Specialist, Grievance and Appeals, appeared on behalf of Molina Healthcare, the Respondent Medicaid Health Plan (United or MHP). Dr. Keith Tarter, Senior Medical Director; Karen Spiteri, Clinical Pharmacist; and Thomas Vayalil; Pharmacy Manager, appeared as witnesses for the MHP.

ISSUE

Did the MHP properly deny Petitioner's prior authorization request for the medication Humira Pen 40mg/0.8ml Pen?

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, born [redacted], who has been diagnosed with psoriasis, hidradenitis suppurativa, IBS, and depression/anxiety and who is enrolled in the Respondent MHP. (Exhibit A, p 14; Testimony)

2. On October 3, 2019, the MHP received a prior authorization request from Petitioner's provider for the medication Humira Pen 40mg/0.8ml Pen. (Exhibit A, pp 28-41; Testimony)

3. On October 8, 2019, the MHP sent Petitioner and her provider written notice that the prior authorization request was denied because the

records submitted did not demonstrate that Petitioner had tried the preferred drugs and that those drugs did not work. Specifically, the denial indicated that Humira Pen 40mg/0.8ml Pen authorization requires documentation that the member has had an inadequate response to (ALL) intralesional corticosteroids, procedural interventions, 3 months of oral clindamycin plus rifampin and infliximab. (Exhibit A, pp 44-51; Testimony)

4. On November 27, 2019, following an internal appeal, the MHP upheld the denial of Petitioner's prior authorization request. (Exhibit A, p 5; Testimony)

5. On December 13, 2019, the Michigan Office of Administrative Hearings and Rules (MOAHR) received Petitioner's request for an expedited hearing. (Exhibit 1)

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:

> 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.
>
> *Medicaid Provider Manual*
> *Medicaid Health Plan Chapter*
> *October 1, 2019, p 1*
> *(Emphasis added)*

Similarly, the MHP's contract with the Department provides:

> The Contractor may have a prescription drug management program that includes a drug formulary. DCH may review the Contractor's formularies regularly, particularly if enrollee complaints regarding access of care have been filed regarding the formulary. The Contractor must have a process to approve physicians' requests to prescribe any medically appropriate drug that is covered under the Medicaid Pharmaceutical Product List (MPPL).

Pursuant to the above policy and its contract with the Department, the MHP has developed a drug management program that includes a drug formulary and provides that its covered services are subject to the limitations and restrictions described in the MHP's Medicaid agreement, the MPM, Medicaid bulletins, and other directives.

With regard to Humira Pen 40mg/0.8ml Pen, the Medicaid Health Plan Common Formulary Prior Authorization Criteria provide, in relevant part:

> Coverage Criteria/Limitations for initial authorization:
>
> - Diagnoses: Hidradenitis suppurativa:
> - Documentation Requirements (e.g. Labs, Medical Record, Special Studies:
>   - Clinically diagnosed with severe and refractory hidradenitis suppurativa
>   - Documentation of negative TB test within last 12 months
>   - Must not have heart failure
>   - Documentation of use of general measures:
>   - Education and support

- Avoidance of skin trauma

- o Documentation of inadequate response to intralesional corticosteroids

- o Documentation of inadequate response to procedural interventions (punch debridement) in combination with pharmacologic therapies

- o Documentation of trial and failure of systemic and topical antibiotic therapy

  - 3 months of topical antibiotics

  - 3 months of doxycycline

  - 2 months of clindamycin plus rifampin

- o Documentation of adequate trial and failure of infliximab (medical benefit)

  - Does not apply to members less than 18 years old.

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(Exhibit A, pp 79-80)

In this case, the denial of the prior authorization request was based on the fact that the requested medication, Humira Pen 40mg/0.8ml Pen is only approved with documentation that the member has had an inadequate response to (ALL) intralesional corticosteroids, procedural interventions, 3 months of oral clindamycin plus rifampin and infliximab.

Petitioner testified that she has been suffering from HS and psoriasis for 14 years and has tried everything over those 14 years, except for infusions. Petitioner indicated that she has been with Molina for the past 8 years. Petitioner testified that she knows she has taken all of these medications in the past but may not be able to prove it. Petitioner testified that this has been a very difficult struggle. Petitioner indicated that it is very hard to work as this is a very uncomfortable disease and she feels like a test dummy she has tried so many therapies. Petitioner testified that her doctor thinks Humira will help her and she really wants to try it.

In response, the MHP's Medical Director indicated that Remicade (infliximab) is actually the preferred biologic to treat Petitioner's conditions, so she should go back to her doctor and try that first. The MHP's clinical pharmacist confirmed that this is an infusion, which Petitioner admits she has not tried.

Given the above policy and evidence, Petitioner has failed to prove by a preponderance of the evidence that the MHP erred in denying the prior authorization request for Humira Pen 40mg/0.8ml Pen. The MHP's formulary only covers Humira Pen 40mg/0.8ml Pen when there is documentation that the member has had an inadequate response to (ALL) intralesional corticosteroids, procedural interventions, 3 months of oral clindamycin plus rifampin and infliximab. Here, Petitioner admits that she has not tried Remicade (infliximab), which is the preferred biologic to treat Petitioner's conditions. If Petitioner tries and fails therapy with Remicade, her physician can request Humira Pen 40mg/0.8ml Pen at that time, provided Petitioner meets all of the other requirements listed above. However, the MHP's decision was proper at the time it was made and must be upheld.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the MHP properly denied Petitioner's prior authorization request for the medication Humira Pen 40mg/0.8ml Pen.

IT IS THEREFORE ORDERED that:

The Medicaid Health Plan's decision is AFFIRMED.

RM/sb

Robert J. Meade
Administrative Law Judge
for Robert Gordon, 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

DHHS -Dept Contact	Managed Care Plan Division CCC, 7th Floor Lansing, MI 48919
Community Health Rep	[redacted], MI
Petitioner	[redacted], MI