

GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: May 4, 2020
MOAHR Docket No.: 19-012880
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, 42 CFR 431.200 *et seq.*, and Mich Admin Code: R 792.11002, upon the Petitioner's timely request for a hearing. After due notice, a telephone hearing was held on April 28, 2020, from Lansing, Michigan. Petitioner, [REDACTED] appeared and represented herself. Respondent, Department of Health and Human Services (Department), had Mary Carrier, Manager, appear as its representative. The Department had one witness, Dr. David Wartinger. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 40-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Did the Department properly deny Petitioner's request for prior authorization for out of state services performed by the Cleveland Clinic in November 2018?

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.
2. In 2018, Petitioner's primary care physician referred Petitioner to the Cleveland Clinic.
3. On October 4, 2018, Petitioner first went to the Cleveland Clinic.

4. On November 7, 2018, Petitioner returned to the Cleveland Clinic and had an MRI. A representative of the Cleveland Clinic told Petitioner that she was ready for surgery and that her insurance would cover it. The Cleveland Clinic was under the impression that Petitioner had Anthem as her primary insurance, and the Cleveland Clinic thought Anthem had authorized Petitioner's surgery. The Cleveland Clinic did not request prior authorization from Medicaid prior to performing the surgery.
5. On November 8, 2018, the Cleveland Clinic performed surgery on Petitioner.
6. The services provided by the Cleveland Clinic were non-emergency services that were provided out of state.
7. After the Cleveland Clinic provided care for Petitioner, the Cleveland Clinic requested retroactive prior authorization for the services it provided.
8. On December 4, 2019, the Department denied the Cleveland Clinic's prior authorization request because the services provided were not authorized by Medicaid before they were performed, and they could have been performed in Michigan.
9. On December 16, 2019, Petitioner requested a hearing to dispute the Department's denial.

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.

The Medicaid Provider Manual contains the Department's policies related to Medicaid services. It states that "reimbursement for services rendered to [Medicaid] beneficiaries is normally limited to Medicaid-enrolled providers." *MDHHS Medicaid Provider Manual* (October 1, 2019), General Information Chapter, Section 7.3, p. 22. The Department provides reimbursement for services provided by out of state providers when one of the following occurs: (a) the services were provided in an emergency; (b) Medicare or a commercial insurance company has paid as the primary insurance, and Medicaid is only being billed for coinsurance and/or deductible amounts; or (c) the services were prior authorized by the Department. *Id.* Out of state providers are responsible for following the Department's policies. *Id.* at 23.

In this case, Petitioner had services provided by an out of state provider, the Cleveland Clinic. The services were not provided in an emergency, neither Medicare nor a commercial insurance company paid as the primary insurance, and the out of state

provider did not obtain prior authorization. Thus, the services did not meet the Department's criteria for reimbursement for services provided by an out of state provider.

Petitioner asserted that she was advised by the Cleveland Clinic that the services would be covered by her insurance. Further, Petitioner asserted that she was unaware the Cleveland Clinic had not requested prior authorization from the Department. The Cleveland Clinic may have thought that Petitioner's services were going to be covered by Anthem as the primary insurance. However, there is no evidence that Anthem actually paid for Petitioner's services as the primary insurance or that Medicaid was only billed for coinsurance and/or deductible amounts. If Anthem was not Petitioner's primary insurance and Medicaid was Petitioner's primary insurance, then the Cleveland Clinic was required to obtain prior authorization from the Department because the services were not being provided in an emergency.

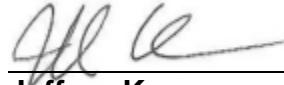
Based on the evidence presented, Petitioner has not established that the Department's denial of Petitioner's request for prior authorization for out of state services performed by the Cleveland Clinic in November 2018 was improper.

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 request for prior authorization.

IT IS ORDERED THAT the Department's decision is **AFFIRMED**.

JK/dh



Jeffrey Kemm
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

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Petitioner

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