[redacted]
, MI [redacted]

Date Mailed: June 29, 2020
MOAHR Docket No.: 20-002938
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 June 24, 2020. Petitioner, [redacted], appeared and testified on her own behalf. Katie Feher, Manager of Appeals, appeared on behalf of Meridian Health, the Respondent Medicaid Health Plan (Meridian or MHP). Dr. Brandi Basket, Chief Medical Officer, appeared as a witness for the MHP.

ISSUE

Did the MHP properly deny Petitioner's prior authorization request for Trigger Point Injections?

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 myofascial pain. (Exhibit A, p 15; Testimony)

2. On January 28, 2020, the MHP received a prior authorization request from Petitioner's provider for Trigger Point Injections. (Exhibit A, pp 11-18; Testimony)

3. On January 31, 2020, the MHP sent Petitioner and her provider written notice that the prior authorization request was denied because the request as submitted did not meet the coverage criteria. Specifically, the notice indicated that no more than four Trigger Point Injections are allowed every 12 months and Petitioner has had four injections since October 2019; it had not been at least two months since the last injection,

as required by policy; and records did not show that Petitioner achieved at least 50% pain relief from prior injections. (Exhibit A, pp 19-27; Testimony)

4. On February 17, 2020, Petitioner filed an Internal Appeal and submitted additional documentation. (Exhibit A, pp 29-47; Testimony)

5. On March 11, 2020, the MHP sent Petitioner a Notice of Internal Appeal Decision, which upheld the denial of Petitioner's prior authorization request. (Exhibit A, pp 50-59; Testimony)

6. On May 8, 2020, the Michigan Office of Administrative Hearings and Rules (MOAHR) received Petitioner's request for hearing. (Exhibit A, pp 1-5)

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*
> *January 1, 2020, p 1*
> *(Emphasis added)*

Pursuant to the above policy and its contract with the Department, the MHP has developed criteria for its covered services that are subject to the limitations and restrictions described in the MHP's Medicaid agreement, the MPM, Medicaid bulletins, and other directives.

With regard to Trigger Point Injections, the Medicaid Health Plan relies on eviCore Comprehensive Musculoskeletal Management Guideline CMM 202 – Trigger Point Injections, which provide, in relevant part:

> **CMM-202.1: Definitions**
>
> - **Trigger point injections** are defined as an injection of a local anesthetic with or without the addition of a corticosteroid into clinically identified myofascial trigger points.
>
> - **Myofascial trigger point** is defined as a discrete, focal, hyperirritable spot found within a taught band of skeletal muscle or its fascia which when provocatively compressed causes local pain or tenderness as well as characteristic referred pain, tenderness and/or autonomic phenomena. Digital palpation, as well as needle insertion into the trigger point, can often lead to a local twitch response. A local twitch response is a transient visible or palpable contraction of the muscle. The presence of characteristic referred pain, tenderness, muscle shortening and/or autonomic phenomena (e.g., vasomotor changes, pilomotor changes, muscle twitches, etc.) is necessary to render the diagnosis of a myofascial trigger point. Tender points within a muscle or its fascia, which do not refer pain, tenderness and/or autonomic phenomena and lack a local twitch response, cannot be considered a myofascial trigger point.
>
> **CMM-202.2: General Guidelines**

- Trigger point injections are not without risk, and can expose patients to potential complications.

- The determination of medical necessity for the use of trigger point injections is always made on a case-by-case basis.

CMM-202.3: Indications

- Trigger point injections are considered **medically necessary** when **BOTH** of the following criteria are met:

    - A myofascial trigger point has been identified by the presence of **ONE or MORE** of the following on physical examination:

        - Characteristic referred pain
        - Tenderness
        - Muscle shortening
        - Autonomic phenomena (e.g., vasomotor changes, pilomotor changes, muscle twitches, etc.)

    - Performed using a local anesthetic with or without steroid (e.g., saline or glucose)

- Repeat trigger point injections are considered **medically necessary** when **BOTH** of the following are documented:

    - At least 50% pain relief with evidence of functional improvement for a minimum of six (6) weeks following the prior injection(s)

    - Adequate instruction or supervision in self-management strategies (i.e., therapeutic exercise, ergonomic advice, ADL training, etc.)

CMM-202.4: Non-indications

- Trigger point injections are considered **not medically necessary** for any of the following:

    - When performed with any substance other than local anesthetic with or without steroid (e.g., saline or glucose)

- When performed on the same day of service as other treatments in the same region
- When requested for any of the following:
  - Acupuncture
  - Electro-Acupuncture
  - Acupoint injections, aka Biopuncture (saline, sugar, herbals, homeopathic substances)
  - Dry needling
  - Image-guided injection over spinal hardware

➢ Repeat trigger point injections are considered **not medically necessary** for any of the following:

- An isolated treatment modality
- An interval of less than two (2) months
- More than four (4) trigger point injection sessions per body region per year

(Exhibit A, pp 60-63, Emphasis added)

In this case, the denial of the prior authorization request was based on the fact that the requested Trigger Point Injections are only approved if there have been no more than four Trigger Point Injections in the past 12 months, it has been at least two months since the last injection, and records show that the patient achieved at least 50% pain relief from prior injections. Respondent's witnesses testified that in the present case, Petitioner's prior authorization did not meet that criteria because Petitioner had had four Trigger Point Injections since October 2019, her last injection was in early January 2020, or the same month as the prior authorization request, and there was no record of the percentage of pain relief Petitioner achieved with the injections. Respondent's witnesses pointed out that Petitioner records simply indicated that the injections provided Petitioner with some relief but did not indicate how much.

Petitioner testified that the injections do help her and have been one of the only things that have helped with her pain. Petitioner indicated that medications have not helped her, but the injections help with the pain, make it possible for her to turn her head and reduce her migraine headaches. Petitioner testified that the relief lasts four to six weeks and that she has been getting the injections every four to six weeks for the past couple of years, so she cannot understand why this has become an issue all of a sudden.

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 Trigger Point Injections. The MHP only covers Trigger Point Injections if there have been no more than four Trigger Point Injections in the past 12 months, it has been at least two months since the last injection, and records show that the patient achieved at least 50% pain relief from prior injections. Here, records submitted with Petitioner's prior authorization request do not meet these criteria. Records show that Petitioner has had four Trigger Point Injections since October 2019 and the last injection was less than 30 days prior to the prior authorization request. Also, while records do show that the injections work for Petitioner, the records do not quantify the results by any percentage, as required by the criteria.

While the undersigned is sympathetic to Petitioner's argument that the injections are working, if the MHP were to approve the injections without Petitioner meeting the above criteria, Medicaid will not pay for the medication. Hence, while Petitioner may have received the injections in the past outside of the stated criteria, the MHP cannot continue to provide services that do not meet Medicaid criteria. Otherwise, the MHP will risk not being paid by Medicaid for the services or having to pay Medicaid back for the services following an audit. Furthermore, the issue on appeal, and the only issue the undersigned can consider, is whether the MHP's decision was proper at the time it was made, based on the information available at that time. As such, the undersigned cannot consider Petitioner's assertions at the hearing regarding how much the injections have helped her because that information was not included in the prior authorization request. Based on the information submitted, the MHP's decision was proper 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 Trigger Point Injections.

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
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Petitioner

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