

GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED], MI 48734

Date Mailed: November 4, 2020
MOAHR Docket No.: 20-005658
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 and 42 CFR 431.200 *et seq.*, upon Petitioner's request for a hearing.

After due notice, a hearing was held on November 4, 2020. Petitioner appeared on his own behalf. Emily Piggott, Appeals Review Officer, represented the Department. Michelle Mapes, RN, Program Review Division, appeared as a witness for the Department.

ISSUE

Did the Department properly deny Petitioner's prior authorization request for a wearable cardioverter defibrillator?

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]. (Exhibit A, p 16; Testimony)
2. On August 7, 2020, the Department received a prior authorization request from the medical supply company for a wearable cardioverter defibrillator for Petitioner. (Exhibit A, p 10; Testimony)
3. The requested service dates on the prior authorization request were from June 18, 2020 through September 17, 2020. (Exhibit A, p 13; Testimony)
4. On August 11, 2020, the Department sent Petitioner and his provider a Notification of Denial indicating that the prior authorization request was denied because services provided before prior authorization is requested will not be covered unless the beneficiary was not eligible on the date of service and the eligibility was made retroactive. (Exhibit A, pp 7-8;

Testimony)

5. On September 11, 2020, the Michigan Office of Administrative Hearings and Rules received Petitioner's hearing request. (Exhibit A, pp 4-6)

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 statute, the Social Welfare Act, the Administrative Code, and the State Plan under Title XIX of the Social Security Act Medical Assistance Program.

The Michigan Department of Health and Human Services (MDHHS) Medicaid Provider Manual states:

1.8.D. RETROACTIVE PRIOR AUTHORIZATION

Services provided before PA is requested will not be covered unless the beneficiary was not eligible on the DOS and the eligibility was made retroactive. If the MDHHS record does not show that retroactive eligibility was provided, then the request for retroactive PA will be denied.

* * * *

2.46 WEARABLE CARDIOVERTER-DEFIBRILLATORS

Definition

A wearable cardioverter-defibrillator (WCD) is an external device intended to perform the same tasks as an implantable cardioverter-defibrillator (ICD) without requiring an invasive procedure. It is considered a bridge to permanent ICD placement.

The WCD consists of a vest, worn continuously underneath clothing, and contains cardiac monitoring electrodes that deliver a counter shock. The vest is connected to a monitor with a battery pack and alarm module that interprets the cardiac rhythm and determines when a counter shock is necessary. An alarm module alerts the patient to certain conditions by lights or voice messages.

PA Requirements

Food and Drug Administration (FDA)-registered WCDs are covered under the Medicaid and CSHCS programs with prior authorization (PA). Requests for PA (form MSA-1653-B) may only be submitted by the

beneficiary's managing cardiologist and must include a current treatment plan and updated recommendations.

PAAs are approved for 30 days at a time for a maximum of three months.

For continued medical need beyond 30 days, a new PA request must be submitted documenting all of the following:

- The beneficiary's response to and continued need for the WCD;
- The anticipated date of the ICD procedure; and
- Documentation of the beneficiary's compliance with wearing the WCD. The compliance report should demonstrate a compliance rate of at least 92% for the previous 30-day period.

Requests for continued PA beyond the maximum of three months will be considered on a case-by-case basis.

*Medicaid Provider Manual,
Medical Supplier Chapter
July 1, 2020, pp 16, 106-107*

The Department witness testified that on August 7, 2020, the Department received a prior authorization request from the medical supply company for a wearable cardioverter defibrillator for Petitioner. The Department witness indicated that following a review, on August 11, 2020, the Department denied the prior authorization request because services provided before prior authorization is requested will not be covered unless the beneficiary was not eligible on the date of service and the eligibility was made retroactive. Here, the Department witness indicated that the prior authorization request was made on August 7, 2020 for a start date of Petitioner using the vest of June 18, 2020. According to policy, the Department witness indicated that the device could not then be approved after it was first used. The Department witness did indicate, however, that the supplier could not bill Petitioner for the device because it waited to submit the prior authorization request. The Department witness pointed out that the hospital did make the request to the medical supplier in a timely manner, but that the medical supplier did not timely submit the prior authorization request.

Petitioner testified that it sounded like Zoll (the medical supplier) made the error as records showed that the hospital sent the request on time. Petitioner indicated that the hospital would not discharge him without the life vest, so if not for the life vest, he would have had to stay in the hospital for 90 days, at an expense considerably higher than the life vest.

The Medicaid Provider Manual (MPM) specifies that, "Services provided before PA is requested will not be covered unless the beneficiary was not eligible on the DOS and the eligibility was made retroactive. If the MDHHS record does not show that retroactive

eligibility was provided, then the request for retroactive PA will be denied." Here, the prior authorization request was made on August 7, 2020 for a start date of Petitioner using the vest of June 18, 2020. According to policy, the device could not then be approved two months after it was first used. **The medical supplier, however, cannot bill Petitioner for the device because it waited almost two months to submit the prior authorization request.** Petitioner confirmed that he has not received a bill for the device. Based on the submitted documentation, the Department's determination to deny coverage for the wearable cardioverter defibrillator must be upheld.

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 Petitioner's request for a wearable cardioverter defibrillator based on the available information.

IT IS THEREFORE ORDERED that:

The Department'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

Gretchen Backer
400 S. Pine, 6th Floor
PO Box 30479
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DHHS Department Rep.

M. Carrier
Appeals Section
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Petitioner

[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]

Agency Representative

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