[redacted]
[redacted]
[redacted], MI [redacted]

Date Mailed: April 29, 2021
MOAHR Docket No.: 21-001235
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 upon the Petitioner's request for a hearing.

After due notice, a telephone hearing was held on May 15, 2021. Petitioner appeared and testified on her own behalf. Nicole Sandstrom, Clinical Services Manager, appeared and testified on behalf of Upper Peninsula Health Plan, the Respondent Medicaid Health Plan (MHP).

During the hearing, Petitioner's request for hearing was admitted into the record as Exhibit #1, pages 1-5. Respondent also submitted an evidence packet that was admitted into the record as Exhibit A, pages 1-38.

ISSUE

Did Respondent properly deny Petitioner's prior authorization request for corneal cross linking surgery?

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] ([redacted]) year-old Medicaid beneficiary who is enrolled in the Respondent MHP. (Exhibit A, page 10; Testimony of Respondent's representative).

2. On December 23, 2020, Respondent received a prior authorization request for corneal cross linking surgery for Petitioner. (Exhibit A, pages 9-17).

3. The request identified the service requested as CPT Code 0402T. (Exhibit A, page 10).

4. That same day, Respondent sent Petitioner a Notice of Adverse Benefit Determination stating that Petitioner's request for surgery had been denied. (Exhibit A, pages 3-6).

5. With respect to the reason for the denial, the notice stated:

> The 2020 Upper Peninsula Health Plan (UPHP) Member Handbook, Chapter 3 Your UPHP Benefits, page 26, "Services not covered by UPHP": Any service, device, supply or item with a code that is not on the Michigan Medicaid Fee Schedule. The code 0402T (the code for the above Corneal Surgery) requested by Dr. [redacted] is a non-covered code on the Michigan Medicaid Fee schedule. Therefore, the Corneal Cross Linking Surgery is not covered.

Exhibit A, page 3

6. On February 4, 2021, Petitioner requested an Internal Appeal with Respondent regarding the denial of the prior authorization request. (Exhibit A, pages 18-19).

7. On February 23, 2021, Respondent sent Petitioner a Notice of Internal Appeal Decision – Denial stating that Petitioner's appeal had been denied. (Exhibit A, pages 20-22).

8. With respect to the reason for the denial, the notice stated:

> Your appeal was reviewed by the Upper Peninsula Health Plan (UPHP) Clinical Services Manager – Utilization Management, who is a registered nurse. Corneal cross linking surgery (code 0402T) is a non covered code per the Michigan Department of Health and Human Services (MDHHS) Outpatient Prospective Payment System Fee Schedule. The Upper Peninsula Health Plan (UPHP) Member Handbook, Chapter 3 Your UPHP Benefits, page 26 states: "Services not covered by UPHP": Any service, device, supply or item with a code that is not on the Michigan Medicaid Fee Schedule or not covered as

> stated in the Michigan Medicaid Provider Manual.

Exhibit A, page 20

9. On March 11, 2021, the Michigan Office of Administrative Hearings and Rules (MOAHR) received the request for hearing filed by Petitioner in this matter regarding Respondent's decision. (Exhibit #1, page 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 statute, 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.
>
> *MPM, October 1, 2020 version*
> *Medicaid Health Plan Chapter, page 1*
> *(underline added for emphasis)*

As allowed by the above policy and its contract with the Department, the MHP has developed prior authorization requirements and utilization management and review criteria, and has limited coverage of dental services to those consistent with all the Department's applicable published Medicaid coverage and limitation policies. In particular, as provided in Respondent's Member Handbook, Respondent does not cover any service code that is not on the Michigan Medicaid Fee Schedule or not covered as stated in the Michigan Medicaid Provider Manual. *See* Exhibit A, page 20.

Here, Respondent denied the prior authorization request at issue in this case pursuant to the above policies and coverage limitations, with Respondent's representative also testifying that the specific procedure code used on the prior authorization request is not a covered benefit under the Michigan Medicaid Fee Schedule or the Michigan Medicaid Provider Manual. Respondent's representative also testified that the denial was for administrative/coverage reasons, and that no determination was made regarding medical necessity.

In response, Petitioner testified that the surgery is medically necessary and should therefore be covered. She also testified that it is wrong to deny her medically necessary care. Petitioner did agree that the requested procedure code is not on the Michigan Medicaid Fee Schedule and she could not identify any policy demonstrating that it is covered.

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

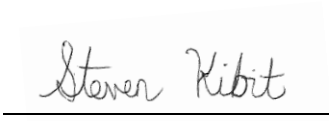
Given the above policy and evidence in this case, Petitioner has not met her burden of proof and Respondent's decision must therefore be affirmed. As demonstrated by Respondent, and uncontradicted by Petitioner, the requested service is not a covered benefit for Petitioner and a requested service may be denied for coverage reasons regardless of medical necessity. Nor does the undersigned Administrative Law Judge have the authority to overrule the Department's coverage policies or limitations.

DECISION AND ORDER

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

IT IS, THEREFORE, ORDERED that:

Respondent's decision is **AFFIRMED.**



SK/sb

Steven Kibit
Administrative Law Judge
for Elizabeth Hertel, 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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MDHHS-MCPD@michigan.gov

Petitioner

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