



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
MI [REDACTED]

Date Mailed: April 15, 2022  
MOAHR Docket No.: 22-000987  
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 Hearing.

After due notice, a hearing was held on April 12, 2022. Petitioner, [REDACTED] appeared and testified on his own behalf. Florence Scott-Emuakpor, Appeals Review Officer, appeared on behalf of Respondent, Michigan Department of Health and Human Services (MDHHS or Department). Lori Hinkle, Manager, appeared as a witness for the Department.

### **ISSUE**

Did the Department properly deny Petitioner's prior authorization (PA) request for Home Based Therapy and Home Health Aide Services?

### **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] 1960, who has been diagnosed with deep vein thrombosis, spondylolisthesis of lumbar region, chronic inflammatory demyelinating polyradiculoneuropathy (CIDP), and impaired mobility. (Exhibit A, p 10; Testimony)
2. On January 21, 2022, the Department received a PA request from Petitioner's provider for Home Based Therapy and Home Health Aide Services for dates of service from December 1, 2021 through December 31, 2021. (Exhibit A, p 21; Testimony)
3. On February 2, 2022, the Department sent Petitioner a Notification of Denial indicating that the PA requests for Home Based Therapy and Home Health Aide Services were denied for failure to meet policy requirements. Specifically, the notice indicated that services provided before PA is approved will not be covered unless the beneficiary was not Medicaid

eligible on the date of service but became eligible retroactively.<sup>1</sup> (Exhibit A, pp 21-22 Testimony)

4. Petitioner was Medicaid eligible on the dates of service requested. (Exhibit A, p 23; Testimony)
5. On March 7, 2022, the Michigan Office of Administrative Hearings and Rules (MOAHR) received Petitioner's request for hearing. (Exhibit A, pp 6-7)

## **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.

Medicaid covered benefits are addressed for the practitioners and beneficiaries in the Medicaid Provider Manual (MPM). Regarding the specific request in this case, the applicable version of the MPM states in part:

### **10.1 HOME HEALTH AIDE PRIOR AUTHORIZATION**

Home health aide services for Medicaid beneficiaries must be authorized by the MDHHS Program Review Division after the initial 90 days, and every 90 days thereafter if continued services are deemed medically necessary.

Prior authorization is required each time services are requested for:

- continuation of services beyond the initial 90 days;
- continuation of services beyond the end date of the current authorization period (renewal);
- an increase in services; or
- a decrease in services.

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<sup>1</sup> The Notification also pointed out that a Medicaid beneficiary can receive up to 36 Home Health Aide visits within the first 90 days without a PA and that no PA is required for up to 144 units of physical and/or occupational therapy per calendar year period.

#### **10.1.D. RETROACTIVE PRIOR AUTHORIZATION**

Services provided before PA is approved will not be covered unless the beneficiary was not Medicaid eligible on the date of service but became eligible retroactively. If MDHHS eligibility information does not demonstrate retroactive eligibility, then the request for retroactive PA will be denied.

*Medicaid Provider Manual  
Home Health Chapter  
October 1, 2021, pp 18, 20  
Emphasis added*

### **SECTION 3 – PRIOR AUTHORIZATION REQUESTS**

Prior authorization is required for certain therapy services before the services are rendered. To determine which therapy services require prior authorization, refer to the Standards of Coverage and Service Limitations Section of this chapter, the Medicaid Code and Rate Reference tool in CHAMPS, or the MDHHS Therapies Database on the MDHHS website. (Refer to the Directory Appendix for website information.)

Prior authorization (PA) is not required for the initiation of home health therapy services for up to a maximum of 24 visits within the first 60 consecutive days if:

- the beneficiary has not received home health therapy services within the calendar year, and
- services do not exceed the maximum.

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### **3.2 RETROACTIVE PRIOR AUTHORIZATION**

Therapy services provided before prior authorization is requested will not be covered unless the beneficiary was not eligible on the date of service and a subsequent eligibility determination was made retroactive to the date of service. If the MDHHS eligibility file does not show that retroactive eligibility was approved, then the request for retroactive prior authorization will be denied.

*Medicaid Provider Manual  
Therapy Services Chapter  
October 1, 2021, pp 6-7  
Emphasis added*

Here, the Department sent Petitioner written notice that the PA requests for Home Based Therapy and Home Health Aide Services were denied because the services were provided before the PA requests were submitted. The Department's witness did indicate that Petitioner could receive up to 36 Home Health Aide visits within the first 90 days without a PA and that no PA is required for up to 144 units of physical and/or occupational therapy per calendar year period.

Petitioner testified that he first got Medicaid in 2019 after he lost his private insurance through his former employer. Petitioner testified that he was in and out of the hospital from March 29, 2021 through November 8, 2021, and needed these services when he got home. Petitioner indicated that he is basically a paraplegic and confined to a wheelchair. Petitioner testified that he is currently receiving no in-home services and must rely on the care of his children.

In response, the Department's witness indicated that it appeared that Petitioner was now in need of Home Help Services, not Home Health Aide Services. Petitioner indicated that he believed he had already applied for Home Help Services, but the Department's witness was unable to find an open Home Help case in the system.<sup>2</sup>

Petitioner bears the burden of proving by a preponderance of the evidence that the Department erred in denying the PA requests in this case. Moreover, the undersigned Administrative Law Judge is limited to reviewing the Department's decision in light of the information that was available at the time the decision was made.

Given the record and available information in this case, the undersigned Administrative Law Judge finds that Petitioner has failed to meet the burden of proof and that the Department's decision must therefore be affirmed. Based on the information provided, the Department properly determined that the Home Based Therapy and Home Health Aide Services were properly denied because those services were provided prior to the PA requests being submitted, and Petitioner did not qualify for a retroactive PA approval under policy. As indicated above, the policy indicates that a PA will only be made retroactive if the beneficiary was not eligible for Medicaid at the time the services were provided, but later became eligible for Medicaid retroactively. Here, Petitioner has been receiving Medicaid since 2019, so he would not meet that exception. As such, the Department's decision was proper and must be upheld.

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<sup>2</sup> Arrangements were made to assist Petitioner with properly applying for Home Help Services after the hearing.

**DECISION AND ORDER**

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department properly denied Petitioner's prior authorization requests for Home Based Therapy and Home Health Aide Services.

**IT IS THEREFORE ORDERED THAT:**

The Department's decision is **AFFIRMED**.



RM/tem

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**Robert J. Meade**  
Administrative Law Judge

**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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