



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: June 14, 2022
MOAHR Docket No.: 22-001556
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 telephone hearing was held on June 9, 2022. [REDACTED] Petitioner's mother, appeared and testified on Petitioner's behalf. Lisa Johnson, Appeals and Grievances Lead, appeared on behalf of Molina Healthcare, the Respondent, Medicaid Health Plan (MHP). Dr. Keith Tarter, Senior Medical Director, appeared as a witness for the MHP.

Respondent's representative indicated that Petitioner had not yet requested or completed the internal appeal, but Respondent agreed to proceed with the hearing since the time to request an internal appeal had expired.

ISSUE

Did the MHP properly deny Petitioner's request for phototherapy (light therapy)?

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, who is enrolled in the Respondent, MHP. (Exhibit A, p 1; Testimony).
2. On February 18, 2022, the MHP received a prior authorization request submitted on Petitioner's behalf asking for phototherapy (light therapy). (Exhibit A, pp 3-11; Testimony).
3. On March 4, 2022, the MHP sent Petitioner written notice that the prior authorization request was denied for failure to meet Molina Clinical Review criteria for phototherapy (light therapy). The notice indicated, in part:

The notes sent in show that your child has psoriasis. This is a skin condition that causes red, itchy and scaly patches. A request was received for your child to have phototherapy. This is a treatment using light. This does not meet criteria. The notes do not show that your child has tried other medical treatments which have not helped. These include biological agents, diet restrictions, medications to suppress the immune system, and stress management. The notes do not show reasons why your child could not have these other treatments. Also, PUVA (taking medicine that makes the skin more sensitive to light then being exposed to light) is not indicated for children under 12 years old. Therefore, this request is denied. (Exhibit A, pp 17-26; Testimony).

4. On March 28, 2022, the Michigan Office of Administrative Hearings and Rules (MOAHR) received Petitioner's Request for Hearing. (Exhibit A, p 13; Testimony).

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 (MHP).

The Respondent is the contractor for 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 Plans Chapter
January 1, 2022, p 1
Emphasis added*

Pursuant to the above policy and its contract with the Department, the MHP has developed prior authorization requirements and utilization management and review criteria. With respect to phototherapy (light therapy), the MHP uses its own Clinical Review Criteria, which provides, in part, as follows:

1. Office-based phototherapy and photochemotherapy may be considered medically necessary when all of the following criteria are met: [ALL]
 - Diagnosis of any of the following conditions: [ONE]
 - atopic dermatitis (i.e., atopic eczema)
 - connective tissue diseases involving the skin (e.g., cutaneous graft vs. host disease [GVHD], localized scleroderma, lupus erythematosus)
 - cutaneous T-cell lymphoma (CTCL) (e.g., mycosis fungoides)
 - lichen planus
 - photodermatoses (e.g., polymorphic light eruption, actinic prurigo, chronic actinic dermatitis)

- psoriasis

AND

- Clinical documentation of inadequate symptom control, intolerance or contraindication to conventional medical management that may include any of the following as applicable:
 - Biological agents
 - Diet restrictions
 - Oral immunosuppressant's
 - Stress management
 - Topical and oral steroids
 - Topical ointments or creams

2. Topical targeted phototherapy (excimer laser) may be considered medically necessary when all of the following criteria are met: [ALL]

- Diagnosis of localized, plaque psoriasis

AND

- Clinical documentation of inadequate symptom control, intolerance or contraindication to conventional medical management that includes any of the following: [ONE]
 - topical agents; or
 - phototherapy

PUVA or oral phototherapy treatment is contraindicated in children under age 12 and pregnant or breast feeding women.

(Emphasis added)
(Exhibit A, pp 28-29).

Here, the notice of denial and the MHP's witness testimony both provide that Petitioner's request for phototherapy (light therapy) was denied pursuant to the above policies. Specifically, the MHP's witness indicated that Petitioner's request for phototherapy (light therapy) was denied because the notes submitted did not show that she had tried other medical treatments and that those treatments had failed to help. Petitioner is also under [REDACTED] years of age.

Petitioner's mother testified that since the PA request was submitted, she has taken Petitioner to another doctor who does not even think Petitioner has psoriasis.

Petitioner bears the burden of proving by a preponderance of the evidence that the MHP erred in denying her prior authorization request.

Given the record in this case, the undersigned Administrative Law Judge finds that Petitioner has failed to meet that burden of proof and that the MHP's decision must therefore be affirmed. The MHP is permitted by Department policy and its contract to develop review criteria; it has done so; and, pursuant to the applicable review criteria, Petitioner clearly does not meet the requirements for phototherapy (light therapy) because there was no evidence submitted indicating that she had tried other therapies, and those therapies failed. Furthermore, it no longer appears that Petitioner has psoriasis, so phototherapy may not even be an appropriate treatment. As such, 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 the prior authorization request for phototherapy (light therapy).

IT IS THEREFORE ORDERED that:

The Medicaid Health Plan's decision is **AFFIRMED**.



RM/tem

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

Via Electronic Mail:

DHHS Dept Contact

Managed Care Plan Division
MDHHS
CCC, 7th Floor
Lansing, MI 48933
MDHHS-MCPD@michigan.gov

Community Health Rep

Molina Healthcare of Michigan
Chasty Lay
880 W. Long Lake Rd., Suite 600
Troy, MI 48098
Chasty.Lay@molinahealthcare.com
Lisa.Johnson@molinahealthcare.com

Via First Class Mail:

Authorized Hearing Rep

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Petitioner

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