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GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: May 26, 2022
MOAHR Docket No.: 22-001846
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Corey Arendt

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 the Petitioner's request for a hearing.

After due notice, a hearing was held on May 25, 2022. Petitioner appeared on her own behalf. Karina Coateston, Supervisor of Appeals, appeared on behalf of Respondent, Meridian Health (Department). Dr. Angela Porter, Senior Medical Director, appeared as a witness for the Department. Dr. Antonia Jenkins, Medical Director, observed the proceeding.

Exhibits:

Petitioner None
Department A – Hearing Summary

ISSUE

Did the Medicaid Health Plan properly deny Petitioner's request for an epidural spine injection?

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 enrolled with Department. (Exhibit A).
2. On October 20, 2021, Petitioner underwent an MRI of her lumbar spine. The MRI revealed the following:

Interval progression of multilevel degenerative and discogenic changes, particularly at L4-L5 with a right paracentral disc protrusion impinging upon descending

nerve roots. Moderate central spinal stenosis notated at L3-L4 and L4-L5. (Exhibit A).

3. On November 30, 2021, Petitioner's medical provider, provided Respondent with a prior authorization request seeking an epidural spine injection. (Exhibit A).
4. On December 13, 2021, Department sent Petitioner a Notice of Adverse Determination. The notice indicated Petitioner's request was being denied. The notice specifically stated:

Your doctor's request for a(n) Lumbar/Sacral Transforaminal Epidural (Lower Back Steroid Injection (Shot)) has been denied.

- NIA Clinical Guideline 300 for Epidural Spine Injections was used to make this decision.
- This decision was based on the notes that were sent: back and leg pain.
- Before we can approve, we need the following notes: notes from your doctor that say your back pain level is at least 6 on a 0-10 scale or how your back pain makes specific things harder to do. We need notes from your doctor that say for at least six weeks in the last six months, you did back exercises or stretches (formal physical therapy, chiropractic treatments, or supervised home exercise program). Your doctor can give a medical reason you can't exercise. If you can't exercise due to pain, tell us when you last tried. We asked for this information but it was not given to us. (Exhibit A).

5. On or around December 30, 2021, Department received additional medical documentation indicating Petitioner had "undergone a variety of conservative treatment, including physical therapy for greater than 1 year." (Exhibit A).
6. On or around March 21, 2022, Department received an Internal Appeal Form. (Exhibit A).
7. On March 30, 2022, Department sent Petitioner a Notice of Internal Appeal Decision Denial. The notice specifically stated:

We received a request for a shot of a substance in your low back to treat pain (Lumbar/Sacral Transforaminal Epidural). The notes show you have pain your low back and right leg. The notes show you have tried therapy in the past. The notes show your pain is worse with standing, lying, and

walking. The notes show you had a special kind of picture (magnetic resonance imaging (MRI)) of your low back show wear and tear (degenerative changes and compression) of your back. Per the NIA Clinical Guidelines 300 for Epidural Spine Injections, the notes must show:

- Doctor's notes that say you did six weeks of back exercises or stretches (formal physical therapy, chiropractic treatments, or supervised home exercise program) in the last six months.

The notes did not show this. Therefore, the request remains denied. (Exhibit A).

8. On or around April 21, 2022, Petitioner requested a Medicaid fair hearing. (Exhibit A).

CONCLUSIONS OF LAW

The Medical Assistance Program (MA) 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.

On May 30, 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.¹

Pursuant to the above policy and its contract with the Department, the MHP has developed prior authorization requirements and utilization and management and review criteria. In particular, as testified to by Respondent's witnesses and provided in its exhibit, Respondent's policies expressly provide that epidural injections are permitted when there is pain causing functional disability or average pain levels greater than or equal to 6 on a 0-10 scale AND Patient engages in some form of other active conservative treatment for a minimum of 6 weeks in the last 6 months.²

Department's witnesses in this case testified the documentation provided failed to outline the physical therapy treatment plans and failed to indicate that physical therapy failed to relieve Petitioner's complaints.

The policy provided does not require the specific information the Department is now requesting. And while it is my belief the documentation provided DOES meet the requirements for an epidural injection, the witnesses testified the documentation was inaccurate and that she only participated in physical therapy for a 6 to 8 week period in early 2021.

Given the available evidence and applicable policies in this case, Petitioner has failed to meet that burden of proof and the Department's decision must be affirmed.

To the extent Petitioner only wants an epidural steroid injection, she can always have a new prior authorization request submitted for that service. If any future request is again denied, she can file another request for hearing. With respect to the issue in this case however, the Department's decision must be affirmed given what was requested, the available information, and the applicable policies.

¹ MPM, Medicaid Health Plans, July 1, 2019, p 1.

² Exhibit A, pp 43-44.

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 an epidural spine injection based on the information available at that time.

IT IS, THEREFORE, ORDERED that:

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

CA/dh


Corey Arendt
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.

Katie Feher

Meridian Health Plan of Michigan Inc.

1 Campus Martius, Suite 700

Detroit, MI 48244

katie.feher@mhplan.com

Via-First Class Mail:

Petitioner

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