



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: August 10, 2022
MOAHR Docket No.: 22-002918
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 August 4, 2022. Petitioner appeared on her own behalf. Adam Herrman, Pharmacist, appeared on behalf of the Respondent, Meridian Health Plan (Department).

Exhibits:

Petitioner	None
Department	A – Hearing Summary

ISSUE

Did the Medicaid Health Plan properly deny Petitioner's request for MS Contin?

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 June 8, 2022, the Department received an electronic prior authorization request for MS Contin. The request was received on behalf of Petitioner. (Exhibit A).
3. On June 8, 2022, the Department denied the request for MS Contin as the request did not meet the Department's coverage criteria. Specifically, the documentation received did not indicate any allergic reactions with the generic and in fact indicated Petitioner's symptoms and pain were controlled with the current regimen of the generic. (Testimony; Exhibit A).

4. On June 22, 2022, the Department received from Petitioner, a request for an internal appeal. (Exhibit A).
5. On June 30, 2022, the Department issued Petitioner a Notice of Internal Appeal Decision. The decision indicated the following:

A physician has reviewed all documentation submitted with this request for MS CONTIN Tablet ER and determined that it does not meet the coverage criteria. The request for this drug remains denied. The request is denied because it did not meet the following criteria : documented allergy, contraindication; drug-to-drug interaction, or history of unacceptable side effects to the preferred medications, or therapeutic failure of one week with one preferred medication. The documentation provided for review does not show that you have met the criteria for approval at this time. The documentation provided for review does not show that you have met the criteria for approval at this time. Please discuss your plan of care with your physician. (Exhibit A, p 2).

6. On July 18, 2022, the Michigan Office of Administrative Hearings and Rules, received from Petitioner, a request for 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 Michigan Department of Health and Human Services, the Department 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, Department policies expressly provide that non-preferred agents are permitted when documentation shows either: an allergy to the preferred medications or contraindication or drug to drug interaction with the preferred medications or history of unacceptable side effects or therapeutic failure of one week with one preferred medication.

The Department's witnesses in this case testified that the documentation provided failed to meet the criteria provided in policy, and furthermore that the documentation provided revealed a history of the preferred medication controlling Petitioner's pain/symptoms.

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.

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 MS Contin based on the information available at that time.

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

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 Department Contact
MDHHS-MCPD
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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[REDACTED] MI [REDACTED]