



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: February 24, 2023
MOAHR Docket No.: 23-000081
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 Petitioner's request for a hearing.

After due notice, a telephone hearing was held on February 14, 2022. Petitioner, through an interpreter, appeared and testified on her own behalf. Karina Coateston, Supervisor for Appeals Department, appeared and testified on behalf of Meridian, the Respondent Medicaid Health Plan (MHP). Dr. Maria Hayes, Medical Director, also testified as a witness for Respondent.

During the hearing, Respondent submitted an evidence packet that was admitted into the record without objection as Exhibit A, pages 1-111. No other proposed exhibits were submitted.

ISSUE

Did Respondent properly deny Petitioner's request for a stress echocardiogram?

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 who is enrolled in the Respondent MHP. (Exhibit A, pages 13).
2. On or about December 5, 2022, Respondent received a prior authorization request for a stress echocardiogram submitted on Petitioner's behalf by her doctor. (Exhibit A, pages 13-48).
3. In part, that request indicated that the stress echocardiogram was needed as part of a pre-surgery evaluation. (Exhibit A, page 13).

4. On December 17, 2022, Respondent sent Petitioner written notice that the prior authorization request had been denied. (Exhibit A, pages 49-57).

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

Your doctor's request for a(n) Stress Echocardiogram (pictures of inside your heart) has been denied.

- NIA Clinical Guideline 026 for Stress Echocardiogram was used to make this decision.
- This decision was based on the notes that were sent: shortness of breath [sic].
- Before we can approve, we need the following notes: doctor's notes that say why you cannot do a heart test where you walk (Exercise Stress Test). Those notes could also say you cannot do that test because your heart tracing (ECG (Electrocardiogram)) is bad. We asked for this information, but it was not given to us.
- It is suggested that you follow up with your doctor for the next step in your care.

Exhibit A, page 50

6. Petitioner subsequently filed an Internal Appeal with Respondent regarding that decision. (Exhibit A, pages 58-80).

7. In part, that appeal included a letter from Petitioner's doctor stating:

My patient, [Petitioner] is in need of stress echo for pre op testing. She is in need of revision of bariatric surgery and hiatal hernia. She is having new onset dyspnea with mild to moderate exertion. She has an abnormal EKG with NSR and poor R wave progression.

Exhibit A, page 59

8. On December 19, 2022, Respondent sent Petitioner written notice that her Internal Appeal was denied. (Exhibit A, pages 81-92).

9. With respect to the reason for the decision, the notice stated in part:

Your doctor stated they would like to appeal the service because you are having problems breathing (dyspnea) and you need surgery for weight loss (bariatric weight surgery). The notes show your breathing problems are worse with activity (exertion). The notes show a tracing of your heartbeat (electrocardiogram (EKG)) was abnormal. Per the NIA Clinical Guideline 026 for Stress Echocardiogram, the notes must show:

-Doctor's notes that say why you cannot do a heart test where you walk (Exercise Stress Test).

The notes did not show this. Therefore, the request remains denied.

Your appeal was reviewed by a consultant. The reviewed is an M.D. who is board certified in Cardiology.

Exhibit A, pages 82-83

10. On January 5, 2023, 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 A, pages 1-8).

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, 2022 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 stress echocardiograms to those consistent with National Imaging Associates (NIA) guidelines.

Specifically, those guidelines provide:

GENERAL INFORMATION

It is an expectation that all patients receive care/services from a licensed clinician. All appropriate supporting documentation, including recent pertinent office visit notes, laboratory data, and results of any special testing must be provided. All prior imaging results and the reason that alternative imaging cannot be performed must be included in the documentation submitted.

* * *

PRIOR TO ELECTIVE NON-CARDIAC SURGERY

(Fleisher, 2014, Patel 2015)

- Patients who would otherwise not be planned for a non-invasive coronary evaluation but are referred for preoperative cardiac evaluation are eligible for SE if **ALL 4** criteria are met:

- Surgery is supra-inguinal vascular, intrathoracic, or intra-abdominal; **AND**
- The patient has **at least one** of these additional cardiac complication risk factors:
 - Ischemic Heart Disease
 - History of stroke or transient ischemic attack (TIA)
 - History of congestive heart failure (CHF) or ejection fraction $\leq 35\%$
 - Insulin-requiring diabetes mellitus
 - Creatinine ≥ 2.0 mg/dl

AND

- The patient has limited functional capacity (< 4 metabolic equivalents) such as one of the following (would likely be requested as MPI):
 - Cannot take care of their ADLs which include but not limited to:
 - Independently eating, bathing, or ambulating
 - Cannot walk 2 blocks on level ground
 - Cannot climb 1 flight of stairs

AND

- There has not been a conclusive stress evaluation, CTA, or heart catheterization within the past year, and the results would be likely to preclude proceeding with the intended surgery.

* * *

ECG Stress Test Alone versus Stress Testing with Imaging

Prominent scenarios suitable for an ECG stress test WITHOUT imaging (i.e., exercise treadmill ECG test) are inferred from the guidelines presented above, often requiring the patient can exercise for at least 3 minutes of Bruce protocol with achievement of near maximal heart rate **AND** has an interpretable ECG for ischemia during exercise (Wolk, 2014):

- The (symptomatic) low or intermediate pretest probability patient who is able to exercise and has an interpretable ECG
- The (asymptomatic) high global risk patient who can exercise and has an interpretable ECG
- The patient who is under evaluation for exercise-induced arrhythmia (Al-Khatib, 2017)
- The patient who requires an entrance stress test ECG for a cardiac rehab program or for an exercise prescription

Exhibit A, pages 93-98

Here, Respondent denied Petitioner's request for a stress echocardiogram pursuant to that policy and on the basis that the documentation submitted failed to demonstrate that Petitioner met the applicable criteria.

In appealing that decision, Petitioner has the burden of proving by a preponderance of the evidence that Respondent 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 failed to satisfy her burden of proof and Respondent's decision must be affirmed. Respondent, as permitted by its contract and the MPM, has developed specific utilization review criteria, consistent with all applicable published Medicaid coverage and limitation policies, regarding stress echocardiograms like the ones requested by Petitioner, and Petitioner does not meet that required criteria. In particular, as credibly explained by Respondent's Medical Director, the applicable policy generally provides that stress echocardiograms requested as preparation for elective non-cardiac surgery like the one requested in this case, would only be approved if an ECG stress test without imaging, also known as an exercise treadmill ECG test, could not be completed; and, while Petitioner's doctor generally described Petitioner's medical conditions and dyspnea with mild to moderate exertion, she did not expressly explain why the other test could not be performed or was necessary.

Both parties also indicated during the hearing that the requested procedure was performed without the required prior authorization from Respondent. Petitioner also indicated that she is concerned that she will be billed for the procedure and, while any billing issues between Petitioner and her medical provider are beyond the scope of this proceeding, the undersigned Administrative Law Judge would note that, pursuant to the Medicaid Provider Manual (MPM), a provider generally cannot bill a patient after accepting them as a Medicaid beneficiary for Medicaid-covered services, for which the provider has been denied payment because of a failure to obtain prior authorization. See MPM, January 1, 2023 version, General Information for Providers Chapter, Section 10.1.

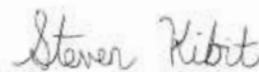
Regardless of any billing dispute between Petitioner and her provider, the denial in this case was proper, given the available information and it must therefore be affirmed.

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 prior authorization request.

IT IS, THEREFORE, ORDERED that:

Respondent's decision is **AFFIRMED**.



SK/sj

Steven Kibit
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).

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