[redacted]
[redacted]
[redacted] MI [redacted]

Date Mailed: September 26, 2024
MOAHR Docket No.: 24-008029
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 a request for a hearing.

After due notice, a telephone hearing was held on September 3, 2024. [redacted] Authorized Hearing Representative (AHR), appeared and testified on behalf of Petitioner [redacted] (Petitioner). Katie Feher, Senior Manager, appeared and testified on behalf of the Respondent Merdian Health Plan of Michigan (Respondent).

During the hearing, Respondent submitted an evidence packet that was admitted into the record without objection as Exhibit A, pages 1-140. No other proposed exhibits were submitted.

## ISSUE

Did Respondent properly deny Petitioner's prior authorization request for a surgical procedure?

## 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 with Respondent, a Medicaid Health Plan (MHP). (Exhibit A, page 60; Testimony of Respondent's representative).

2. On June 6, 2024, Petitioner's provider submitted a prior authorization request on Petitioner's behalf to Respondent for approval of a *mild*® procedure for Petitioner. (Exhibit A, pages 44-66).

3. The provider identified the *mild*® procedure as the only image-guided technique meeting Curren Procedural Terminology (CPT) code 0275T, which addresses percutaneous laminectomy/laminotomy procedures. (Exhibit A, pages 47, 51).

4. The request and supporting documentation indicated that Petitioner has been diagnosed with lumbar spinal stenosis for over one year; the requested procedure has been cleared by the United States Food and Drug Administration (FDA); and is being sought to relieve Petitioner's symptoms and pain. (Exhibit A, pages 44-66).

5. They also indicated what other treatment has been tried previously without success. (Exhibit A, pages 44-66).

6. Petitioner's documentation further stated:

> **WE UNDERSTAND THE CODE IS NON-COVERED. PLEASE HAVE THIS REQUESTED** [sic] **REVIEWED AS A COURTESY MEDICAL NECESSITY BY MEDICAL DIRECTOR SO WE CAN HAVE AN OFFICIAL DENIAL LETTER GENERATED.**

*Exhibit A, page 46*

7. On June 10, 2024, Respondent sent Petitioner a Notice of Adverse Benefit Determination stating that her prior authorization request was denied. (Exhibit A, pages 67-76).

8. With respect to the reason for the denial, the notice stated in part:

> **This action is based on the following:**
>
> Diagnosis: Spinal Stenosis Lumbar Region (narrowing of the lower spine which causes pain)
>
> Requested Code: 0275T (procedure to decompress the spinal canal)
>
> The requested code is not a covered service.
>
> The request is denied per the 2024 Michigan Medicaid Fee Schedule.

*Exhibit A, page 68*

9. On June 12, 2024, Petitioner filed an Internal Appeal, along with supporting medical documentation, with Respondent with respect to that denial. (Exhibit A, pages 77-113).

10. On June 13, 2024, Respondent sent Petitioner a Notice of Internal Appeal Decision – Denial stating that her Internal Appeal had been denied because the requested service is not a covered benefit. (Exhibit A, pages 114-125).

11. On July 22, 2024, the Michigan Office of Administrative Hearings and Rules (MOAHR) received a request for hearing filed by Petitioner in this matter with respect to that decision. (Exhibit A, pages 1-37).

## 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.

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 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, April 1, 2024 version*
> *Medicaid Health Plan Chapter, page 1*
> *(Underline added for emphasis)*

Here, Respondent denied Petitioner's prior authorization request pursuant to the above policy.

In appealing that denial, Petitioner has the burden of proving by a preponderance of the evidence that the MHP 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.

While, pursuant to both its contract and the MPM, Respondent is allowed to provide services over and above those provided by MDHHS/Medicaid, Respondent is only required to provide services consistent with all applicable Medicaid coverage and limitation policies.

Here, as explained by Respondent's witness and demonstrated by its exhibit, Respondent has limited coverage to what is covered by MDHHS/Medicaid, and it determined that the requested service in this case is not covered given the applicable policy and fee schedule.

Moreover, Petitioner's prior authorization request expressly conceded that the requested service is non-covered (Exhibit A, page 46), while her representative failed to identify any coverage or exception to policy during the hearing.

Accordingly, for the reasons discussed above, the denial in this case must 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

**Steven Kibit**
Administrative Law Judge

**NOTICE OF APPEAL**: Petitioner 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

**PROOF OF SERVICE**

I certify that I served a copy of the foregoing document upon all parties, to their last known addresses in the manner specified below, this 26th day of September 2024.

S. James

S. James
**Michigan Office of Administrative Hearings and Rules**

**Via Electronic Mail:**

**Community Health Representative**
Katie Feher
Meridian Michigan
Detroit, MI 48226
**Katie.Feher@centene.com**

**Authorized Hearing Representative**
Natalie Chojnacki
PRIA Healthcare
Torrington, CT 06790
**Vertos@priahealthcare.com**

**DHHS Department Contact**
MDHHS Managed Care Plan Division
Lansing, MI 48933
**MDHHS-MCPD@michigan.gov**

**Via First Class Mail:**

**Petitioner**
[redacted]
[redacted] MI [redacted]