



Date Mailed: May 20, 2025

Docket No.: 25-009844

Case No.: [REDACTED]

Petitioner: [REDACTED]



This is an important legal document. Please have someone translate the document.

هذه وثيقة قانونية مهمة. يرجى أن يكون هناك شخص ما يترجم المستند.

এটি একটি গুরুত্বপূর্ণ আইনি ডকুমেন্ট। দয়া করে কেউ দস্তাবেজ অনুবাদ করুন।

Este es un documento legal importante. Por favor, que alguien traduzca el documento.

这是一份重要的法律文件。请让别人翻译文件。

Ky është një dokument ligjor i rëndësishëm. Ju lutem, kini dikë ta përktheni dokumentin.

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Case No.: [REDACTED]

Petitioner: [REDACTED]

DECISION AND ORDER

This matter is before Michigan Office of Administrative Hearings and Rules (MOAHR) and the undersigned Administrative Law Judge (ALJ) pursuant to MCL 400.9 and upon a request for hearing filed by Petitioner [REDACTED] (Petitioner).

After due notice, a telephone hearing was held on April 22, 2025. Petitioner appeared and testified on his own behalf. Basna Khurshid, Grievance and Appeals Manager, appeared on behalf of Respondent Priority Health Choice, Inc. (Respondent). Donelle Bentley, Senior Analyst, testified as a witness for Respondent.

During the hearing, Respondent submitted six proposed exhibits that were admitted into the record without objection as Exhibits A-F.¹ No other proposed exhibits were submitted by either party.

ISSUE

Did Respondent properly deny Petitioner's prior authorization request for a spinal cord stimulator trial?

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 Respondent. (Exhibit A, page 3).
2. On October 9, 2024, Respondent received a prior authorization request submitted on Petitioner's behalf for a spinal cord stimulator trial. (Exhibit C, pages 58-70).

¹ Respondent's exhibits are numbered collectively, and the undersigned ALJ will refer to those page numbers for ease of reference.

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3. As part of that request, medical documentation from Dr. Peter Bono, DO, an orthopedic surgeon, stated in part:
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Assessments

1. Intervertebral disc disorders with radiculopathy, lumbar region – M51.16 (Primary)
2. Perineural cyst – G96.191
3. Other intervertebral disc displacement, lumbar region – M51.26
4. Other intervertebral disc displacement, lumbosacral region M51.27

Treatment

1. Intervertebral disc disorders with radiculopathy, lumbar region
Imaging: XR: L4 AP/Lateral/Flexion/Extension, results are as above (Performed Date – 09/11/2024)
Clinical Notes: At this time, the patient is apprehensive of surgical intervention, but he feels he has undergone considerable nonoperative treatments without sufficient relief. We agree to reserve an instrumental lumbar fusion as a treatment of last resort. He may benefit from a spinal cord stimulator, and he is agreement to undergoing a trial. Therefore, I have referred him to Dr. Traylor for consideration of the trial. If the trial is successful and he is interested in a permanent stimulator, he may return to see me.

Exhibit C, page 65

4. Documentation from Dr. John Traylor, M.D., identified the same diagnoses and indicated that Petitioner would be scheduled for a spinal cord stimulator trial following. (Exhibit C, page 70).
5. On October 28, 2024, Respondent sent Petitioner written notice that the prior authorization request had been denied. (Exhibit C, pages 101-102).
6. With respect to the reason for the denial, the notice stated in part:

Your request was denied

Priority Health contracts with TurningPoint Healthcare Solutions (TurningPoint) on behalf of our members to review requests for certain services to ensure they are medically necessary and provide the appropriate

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care. Your provider has sent TurningPoint a request to review medical services for pre-approval.

We've denied the medical services listed below that were requested by your provider.

* * *

Why your request was denied

We denied the medical service listed above because:

Your records were carefully reviewed. The request for a device to help your chronic pain cannot be approved. Your records show that you have seen a spine surgeon. The surgeon said that other surgery may help you. Medical studies show that this device does not work as well when that is the case. Please talk with your doctor about treatment options. A copy of this letter went to your doctor. This decision was based on the medical policy for OR-1015 - Spinal Cord Stimulator - Internal Baseline Policy

Exhibit C, page 101

7. Respondent also sent a denial letter to Dr. Traylor, who responded with a letter dated October 29, 2024, in which he stated in part:

Per denial letter from Turning Point the request couldn't be approved for an SCS trial, The letter stated that the Surgeon said that other surgery may help you, which is not true. If the letter was read thoroughly it states, at this time the patient is apprehensive of surgical intervention, but feels he had undergone considerable non-operative treatments without sufficient relief. Lumbar fusion agreed to be of last resort and patient may benefit from a Spinal Cord Stimulator Trial,, and was referred to Dr. Traylor For [sic] a consultation for this procedure. Patient may be a candidate for a permanent stimulator if the trial is successful. Risks and Benefits discussed with the patient.

Exhibit C, page 89

8. On December 10, 2024, Petitioner filed an Internal Appeal with
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Respondent regarding that denial. (Exhibit B, pages 39-40; Exhibit D, pages 107-108).

9. On January 2, 2025, Respondent sent Petitioner written notice that his Internal Appeal had been denied. (Exhibit B, pages 15-16, 40-56).
10. With respect to the reason for that denial, the notice stated in part that Petitioner did not meet the criteria for a spinal cord stimulator because his medical records indicated that other surgery may help him. (Exhibit B, pages 40-41).
11. The notice also advised Petitioner that he could request a State Fair Hearing if he disagreed with the decision. (Exhibit B, page 43).
12. On March 17, 2025, MOAHR received the request for hearing filed in this matter by Petitioner with respect to that decision. (Exhibit A, pages 9-34).

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

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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, October 1, 2024 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 chosen to use its own prior authorization requirements, utilization management, and review criteria. Specifically, as explained by Respondent's witness and demonstrated by its exhibits, Respondent uses TurningPoint Medical Policy when reviewing requests.

With respect to spinal cord stimulators, that policy states in part:

I. Criteria for Inclusion:

A. Temporary lead implantation (trial) is considered medically necessary for the treatment of chronic refractory pain that has been present for greater than 6 months and meets **all** the following criteria:

1. Stimulation is requested for **one** of the following indications:

a. Spinal cord stimulator or dorsal root ganglion stimulator for moderate to severe chronic neuropathic pain due to type I or II complex regional pain syndrome (CRPS) affecting the extremities when **all** the

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following are met:

- i. Diagnosis is confirmed by a physician familiar with CRPS, with documentation showing signs and symptoms that meet the International Association for Study of Pain Budapest criteria (Valencia adaptation)
 - ii. *Any underlying cause of CRPS (e.g. injury or previous surgery) has been evaluated by a surgeon of appropriate specialty and it is determined that no further surgery is indicated*
 - iii. Documentation of at least 6 months of non-operative medical therapy, including pharmacologic, psychologic, and physical therapy, if appropriate and no contraindications are present
- b. Spinal cord stimulator for moderate to severe chronic intractable radiculopathy of the cervical or lumbar spine when **both** of the following are met:
- i. Documentation of at least 6 months of non-operative medical therapy, including pharmacologic, psychologic, and physical therapy, if appropriate and no contraindications are present
 - ii. Treatment is determined by a multidisciplinary team, including a spine surgeon and an interventional pain management physician, and it is determined that no further surgery is indicated
- c. Spinal cord stimulator for severe chronic intractable diabetic neuropathy pain in the lower extremities when **all** the following are met:

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-
- i. Symptoms have been present for 12 months or longer
 - ii. Neuropathy is confirmed by nerve conduction studies
 - iii. Diagnosis is confirmed by a neurologist and other treatable causes of neuropathy have been ruled out
 - iv. At least two different medications have been attempted and failed to control symptoms
 - v. Hemoglobin A1c level of less than 8

*Exhibit E, pages 110-111
(italics added for emphasis)*

Here, Respondent denied Petitioner's prior authorization request pursuant to the above policies and on the basis that a surgeon of an appropriate specialty has not determined that no further surgery is indicated as required before a spinal cord stimulator can be approved.

In appealing that denial, Petitioner has the burden of proving by a preponderance of the evidence that the MHP erred in denying his authorization request. Moreover, the undersigned ALJ 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 his burden of proof, and Respondent's decision must be affirmed.

It is undisputed in this case that, for Petitioner's prior authorization request for a spinal cord stimulator to be approved, a surgeon of an appropriate specialty must have determined that no further surgery is indicated. Moreover, it is also undisputed that Dr. Bono evaluated Petitioner and that he is a surgeon of an appropriate specialty.

What is disputed is Dr. Bono's findings regarding further surgery, with Petitioner asserting that he found that no further surgery is indicated while Respondent determined that he found that other surgery might help Petitioner.

Upon review, the undersigned ALJ finds that Dr. Bono's recommendations and treatment plan are ambiguous at best and fail to sufficiently support Petitioner's case.

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Dr. Bono did not expressly determine that no further surgery was indicated. Moreover, while he did write that he and Petitioner had agreed to reserve further surgery as a treatment of last resort, and that Petitioner should first undergo a trial with a spinal cord stimulator, he did not indicate whether that was his medical recommendation or if it was based on Petitioner's noted apprehension about surgery.

Accordingly, as Petitioner cannot demonstrate that he met the applicable criteria, he failed to meet his burden of proof in this case, and Respondent's decision must be affirmed. Petitioner is free to have another prior authorization request submitted in the future with additional or updated information if he wishes.

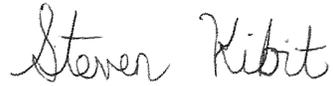
DECISION AND ORDER

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

APPEAL RIGHTS: Petitioner may appeal this Hearing Decision to the circuit court. Rules for appeals to the circuit court can be found in the Michigan Court Rules (MCR), including MCR 7.101 to MCR 7.123, available at the Michigan Courts website at courts.michigan.gov. The Michigan Office of Administrative Hearings and Rules (MOAHR) cannot provide legal advice, but assistance may be available through the State Bar of Michigan at <https://rs.michbar.org> or Michigan Legal Help at <https://michiganlegalhelp.org>. A copy of the circuit court appeal should be sent to MOAHR. A circuit court appeal may result in a reversal of the Hearing Decision.

Either party who disagrees with this Hearing Decision may also send a written request for a rehearing and/or reconsideration to MOAHR within 30 days of the mailing date of this Hearing Decision. The request should include Petitioner's name, the docket number from page 1 of this Hearing Decision, an explanation of the specific reasons for the request, and any documents supporting the request. The request should be sent to MOAHR

- by email to LARA-MOAHR-DCH@michigan.gov, **OR**
- by fax at (517) 763-0155, **OR**
- by mail addressed to
Michigan Office of Administrative Hearings and Rules
Rehearing/Reconsideration Request
P.O. Box 30639
Lansing Michigan 48909-8139

Documents sent via email are not secure and can be faxed or mailed to avoid any potential risks. Requests MOAHR receives more than 30 days from the mailing date of this Hearing Decision may be considered untimely and dismissed.



Via First Class Electronic Mail:

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