

**STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
FOR THE DEPARTMENT OF COMMUNITY HEALTH**

P.O. Box 30763, Lansing, MI 48909
(877) 833-0870; Fax: (517) 334-9505

IN THE MATTER OF:

██████████

Appellant

Docket No. 2009-11481 PA
Case No. ██████████

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 Appellant's request for a hearing.

After due notice, a hearing was held on ██████████, ██████████, appeared on behalf of the Appellant. ██████████, represented the Department.

ISSUE

Did the Department properly deny Appellant's request for durable medical equipment on the basis that Medicare must be billed prior to billing Medicaid?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

- 1) Appellant is a ██████ year-old who was a Medicare and Medicaid beneficiary at all times relevant to this matter.
- 2) On or about ██████████, the Department received Appellant's Prior Authorization request for durable medical equipment, a sit/stand lift. (Exhibit 1, p. 5)
- 3) On ██████████ the Department sent Appellant notice that the Prior Authorization Request received from ██████████ was denied on the basis that the provider failed to submit a brand and/or

model/product number, and a copy of a Medicare explanation of benefits. (Exhibit 1, p. 4)

- 4) On ██████████ Appellant's representative, ██████████ from ██████████ ██████████ filed a hearing request on Appellant's behalf, protesting the denial.

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 this case, Appellant is protesting the denial of her request for durable medical equipment (DME), a sit/stand lift. The Department representative, ██████████ stated that the request was denied because Appellant has Medicare, and an explanation of benefits (EOB) was not submitted with the Prior Authorization Request. Appellant's representative, ██████████, argued that it is a common knowledge that Medicare will not cover the DME that was requested on Appellant's behalf. In addition, ██████████ provided evidence that Medicaid paid for the DME in ██████████. However, the evidence on the record establishes that Appellant was not a Medicare beneficiary at that time.

This Administrative Law Judge must uphold the Department's action. The federal regulations require that all identifiable financial resources available for payment, including Medicare, be billed prior to billing Medicaid. All insurance coverage must be used before filing a claim with Medicaid. Billing Medicaid prior to exhausting other insurance resources may be considered fraud under the Medicaid False Claim Act if the provider is aware that the beneficiary had other insurance coverage for the services rendered. (Refer to the Coordination of Benefits Chapter of the Medicaid Provider Manual) The Department properly determined that it needs an explanation of benefits from Medicare before it would be able to approve Appellant for the requested DME and bill Medicaid.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that properly denied Appellant's request for durable medical equipment on the basis that Medicare must be billed prior to billing Medicaid?


Docket No. 2009-11481
Decision and Order

IT IS THEREFORE ORDERED that:

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

Marya A. Nelson-Davis
Administrative Law Judge
for Janet Olszewski, Director
Michigan Department of Community Health

cc:



Date Mailed: 4/17/2009

***** NOTICE *****

The State Office of Administrative Hearings and Rules may order a rehearing on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. The State Office of Administrative Hearings and Rules will not order a rehearing on the Department's motion where the final decision or rehearing cannot be implemented within 90 days of the filing of the original request. The Appellant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt of the rehearing decision.