

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

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IN THE MATTER OF:

██████████

Appellant

Docket No. 2009-4007 PA
Case No. ██████████
Load 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 ██████████ Appellant's legal guardian, represented the Appellant. ██████████, represented the Department. ██████████, testified as a witness for the Department.

ISSUE

Did the Department properly deny Appellant's request for physical therapy?

FINDINGS OF FACT

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

1. The Appellant is a Medicaid beneficiary.
2. The Appellant is an ██████████ with a diagnosis of an unspecified disorder of the nervous system which has caused him to have decreased lower extremity and core strength, difficulty with age appropriate gross motor skills, and difficulty with coordination. (Exhibit 1, p. 9)

3. On [REDACTED] the Prior Authorization Section of the Medical Services Administration received a request for physical therapy (therapeutic activities) from [REDACTED]. (Exhibit 1, p. 6)
4. The referral received in [REDACTED], on Appellant's behalf, listed the following short term goals: will demonstrate dribbling ball with right and left feet...while maintaining control of ball; will demonstrate single leg hopping vertically for 5 consecutive hops clearing foot without loss of balance; will demonstrate jumping rope for a total of 20 repetitions on even surface; and will demonstrate dribbling a ball with his hands for 20 seconds in one location....; and Appellant and his family will be independent with home program using handouts to complete. (Exhibit 1, p. 6)
5. The referral received in [REDACTED] listed the following long term goals: will demonstrate a vertical jump clearing his feet at least 6 inches; will demonstrate skipping in various directions at various speeds...; will demonstrate roll of ball....; and will demonstrate catching a ball with bilateral hands that was thrown at least 10 feet from at least 6 feet away. (Exhibit 1, p. 6)
6. The referral received in [REDACTED] stated that Appellant's physical therapy is focused on achieving his functional outcome which is set to be met by time of discharge; and Appellant will be able to demonstrate age appropriate gross motor skills in order to participate in age appropriate activities and in preparation for successful completion of physical education requirement. (Exhibit 1, p. 6)
7. The Department denied the prior authorization request [REDACTED] and notified Appellant's parents of the denial in writing. (Exhibit 1, p. 5)
8. The State Office of Administrative Hearings and Rules received the Appellant's request for hearing, protesting the denial, on [REDACTED]

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.

The pertinent sections of the Department's policy, outlined in the Michigan Medicaid Provider Manual (MPM) are as follows:

5.2. PHYSICAL THERAPY

PT services **may** be covered for one or more of the following reasons:

- PT is expected to result in the restoration or amelioration of the anatomical or physical basis for the restriction in performing age-appropriate functional mobility skills;
- PT service is diagnostic
- PT service is for a temporary condition and creates decrease mobility; or
- Skilled PT services are designed to set up, train, monitor, and modify a maintenance or prevention program to be performed by family or caregivers. MDCH does not reimburse for routine provision of the maintenance/prevention program.

PT may include:

- Training in functional mobility skills (e.g., ambulation, transfers, and wheelchair mobility);
- Stretching for improved flexibility;
- Instruction of family or caregivers;
- Modalities to allow gains of function, strength, or mobility; and/or
- Training in the use of orthotic/prosthetic devices.

MDCH requires a new prescription if PT is not initiated within 30 days of the prescription date.

PT is not covered for beneficiaries of all ages for the following:

- When PT is provided by an independent LPT. (An independent LPT may enroll in Medicaid if they provide Medicare-covered therapy and intend to bill Medicaid coinsurance and/or deductible only.)
- When PT is for educational, vocational, or recreational purposes.
- If PT services are required to be provided by another public agency (e.g. CMHSP services, school-based services (SBS))
- If PT requires PA and services are rendered prior to approval.

- If PT is habilitative therapy. Habilitative treatment includes teaching a beneficiary how to perform a task (i.e. daily living skill) for the first time without compensatory techniques or processes. For example, teaching a child normal dressing techniques or teaching cooking skills to an adult who has not performed meal preparation tasks previously.
- If PT is designed to facilitate the normal progression of development without compensatory techniques or processes.
- If PT is a continuation of PT that is maintenance in nature.
- If PT services are provided to meet developmental milestones.
- If PT services are not covered by Medicare as medically necessary.

Only medically necessary PT may be provided in the outpatient setting. Coordination between all PT providers must be continuous to ensure a smooth transition between sources.

Version Outpatient Therapy
Date: July 1, 2008
Medicaid Provider Manual, p. 14

The Department stated in its denial notification the denial of physical therapy was because the services requested are for developmental and habilitative purposes, and not for medical care and treatment. In addition, the Department witness testified that Appellant has other primary health insurance that should pay for the physical therapy that was requested on his behalf.

Appellant's mother testified that Appellant needs the therapy because he has decreased body awareness which has caused him to hurt himself and others. In addition, she testified that Appellant has decreased coordination. Appellant's pediatrician wrote a letter, stating that he believes that prolonged physical therapy will help Appellant overcome his disability. The doctor stated that many of Appellant's signs and symptoms place him at risk for increased tripping and falling, and he is less able to compete with his peers and has lower extremity hypotonia.

Based on the documentary evidence on the record, it appears that Appellant requires physical therapy for the purpose of meeting developmental milestones/habilitative therapy. Habilitative treatment includes teaching a beneficiary how to perform a task (i.e. daily living skill) for the first time without compensatory techniques or processes. The referral received in ██████████ stated that Appellant's physical therapy is focused

on Appellant being able to demonstrate age appropriate gross motor skills in order to participate in age appropriate activities and in preparation for successful completion of physical education requirements. Medicaid policy specifically excludes physical therapy for this purpose. Additionally, Medicaid specifically excludes coverage of physical therapy for educational, vocational or recreational purposes. Further, physical therapy is not covered by Medicaid if it can be provided by another public agency, namely the school.

In conclusion, the evidence on the record fails to establish that Appellant meets the eligibility criteria for physical therapy. Therefore, the Department's denial must be upheld.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly denied Appellant's request for physical therapy.


IT IS THEREFORE ORDERED that:

The Department's decision is AFFIRMED.

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

cc:




Docket No. 2009-4007
Decision and Order

Date Mailed: 2/10/2009

***** 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.