

**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. 2010-43210 QHP
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
██████████ (MHP).
██████████ appeared as a witness for the MHP.

ISSUE

Did the MHP properly determine that Appellant does not meet the eligibility criteria for a power operated vehicle (POV)?

FINDINGS OF FACT

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

1. The Appellant is a Medicaid beneficiary and was enrolled in the MHP in ██████████. (Exhibit 9)
2. The Appellant is a ██████████ woman with a history of morbid obesity; as of ██████████, is ██████████ in height, ██████████ pounds in weight, and with a BMI of ██████████. (Exhibit 7).

3. On [REDACTED], a request for a power scooter for the Appellant was received by the MHP from Appellant's physician, [REDACTED] (Exhibit 1, page 23).
4. On [REDACTED], a power scooter home evaluation and assessment was performed on the Appellant. (Exhibit 7). The assessment indicated the Appellant could ambulate 45 feet with an assistive device. The assessment reported that the Appellant could perform all her activities of daily living, but needed a cane to negotiate steps or on uneven surfaces. (Exhibit 7).
5. On [REDACTED], the MHP denied the request for a power scooter for the Appellant. The reason for denial was that the Appellant didn't meet Medicaid policy criteria for coverage because she can ambulate 45 feet with a quad cane which is considered household distances, and because she has sufficient strength and stability to operate a manual wheelchair for approximately 6 hours a day. (Exhibit 4). In its [REDACTED], denial notice, the MHP indicated it authorized a referral to outpatient physical therapy to develop strength and endurance, and enrollment in Weight Watchers at no cost to improve her health status and limitations due to obesity. (Exhibit 4).
6. On [REDACTED], the State Office of Administrative Hearings and Rules for the Department of Community Health received the Appellant's Request for Administrative Hearing. (Exhibit 9).

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 Medicaid Provider Manual (MPM) outlines the criteria that must be met in order for a power scooter to be covered:

Power Wheelchair or Power-Operated Vehicle (POV) in Both Community Residential and Institutional Residential Settings

May be covered if the beneficiary meets all of the following:

- Lacks ability to propel a manual wheelchair, or has a medical condition that would be compromised by propelling a manual wheelchair, for at least 60 feet over hard, smooth, or carpeted surfaces with or without rest intervals.
- Requires use of a wheelchair for at least four hours throughout the day.
- Is able to safely operate, control and maneuver the wheelchair in their environmental setting, including through doorways and over thresholds up to 1½", as appropriate.
- Has a cognitive, functional level that permits safe operation of a power mobility device with or without training.
- Has visual acuity that permits safe operation of a power mobility device.
- For a three-wheeled power mobility device, has sufficient trunk control and balance.

Medicaid Provider Manual; Medical Supplier
Version Date: July 1, 2010, page 82

In this case, Appellant's physician requested a power scooter on Appellant's behalf. A scooter, also known as a power operated vehicle (POV), may be covered by Medicaid if all of the eligibility criteria are met by the Appellant. The Department's Medicaid policy, as listed above in the Medicaid Provider Manual, outlines the criteria that needs to be met for coverage.

The MHP provided credible evidence that the Appellant can ambulate 45 feet with an assistive device, and has sufficient strength or postural stability to operate a manual wheelchair for approximately 6 hours a day. Comparing the credible evidence in the case to the Medicaid policy criteria, the MHP properly denied Appellant's request for a POV on the basis that she does meet the eligibility criteria for a POV.

The Appellant's husband-Representative stated that although the physical therapist came one time for an evaluation, the physical therapist had no contact after that time. The Appellant's husband-Representative said that the Appellant's medical condition has

declined since the [REDACTED] evaluation, and she can no longer go to the bathroom by herself. The Appellant's husband-Representative said that when the Appellant attempted to do the physical therapy exercises she was instructed to do, she could not perform them and her condition got worse.

The Appellant has the burden of proving by a preponderance of the evidence that she met the Medicaid policy criteria for coverage of a power scooter. The Appellant did not meet her burden of proving by a preponderance of evidence that she met all of the policy criteria required for Medicaid coverage of a power scooter.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Medicaid Health Plan properly denied Appellant's request for a power scooter.

IT IS THEREFORE ORDERED that:

The Medicaid Health Plan's decision is AFFIRMED.



[REDACTED]
Lisa K. Gigliotti
Administrative Law Judge
for Janet Olszewski, Director
Michigan Department of Community Health

cc:



Date Mailed: 9/28/2010

***** 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.