

**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. 2010-15561 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. He had no witnesses. ██████████, represented the Department. Her witness was ██████████.

ISSUE

Did the Department properly deny Appellant's request for prior authorization (PA) of a High Frequency Chest Wall Oscillation System?

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 ██████-year-old male beneficiary. (Appellant's Exhibit #1)

2. Appellant is afflicted with cerebral palsy, pneumonia, and “severe mental and physical impairment.” (Department’s Exhibit A, pp. 2, 4, 11, 13-16 and Appellant’s Exhibit #1)
3. On ██████████, the Appellant’s medical supplier submitted a prior authorization request for a High Frequency Chest Wall Oscillation System (Vest). (Department Exhibit A, pp. 2, 12 – 18)
4. On ██████████ the Department sent notification that the request was denied for lack of information on the try-fail of other modalities and for lack of information on central/neuromuscular paralysis. (Department’s Exhibit A, pp. 2, 8, 9,10)
5. On ██████████ a letter was mailed to Michael Dornoff advising him on the denial of the vest and further advising him of his hearing rights. (Department’s Exhibit A, pp. 2, 9)
6. On ██████████ SOAHR received the Appellant’s request for hearing. (Appellant’s Exhibit #1).

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) sets forth certain criteria, in addition to the establishment of medical necessity, that must be met before such a device is authorized for capped rental. The MPM provides:

[] A high frequency chest wall oscillation (HFCWO) system is an airway clearance device consisting of an inflatable vest connected by two tubes to a small air-pulse generator that is easy to transport. The air-pulse generator rapidly inflates and deflates the vest, gently compressing and releasing the chest wall to create mini-coughs that dislodge mucus from the bronchial walls, increase mobilization, and facilitates it along toward central airways.

Standards of Coverage

A HFCWO system may be covered up to four months if both of the following apply:

- Diagnosis of Cystic Fibrosis, and
- All other treatment modalities have not been effective.

Documentation

Documentation must be less than 180 days old and include:

- Diagnosis pertaining to the need for this unit.
- Severity of condition (e.g., frequency of hospitalizations, pulmonary function tests, etc.).
- Current treatment modalities and others already tried.
- Plan of care by the attending Cystic Fibrosis (CF) Center specialist substantiating need for the device is required under the CSHCS Program.
- For continuation beyond the initial four months, the following information must be provided:
 - Documentation of client compliance through the review of equipment use logs; and
 - Medical statement from a CF Center Specialist substantiating the continued effectiveness of the vest is required under the CSHCS program.

PA Requirements

PA is required for all requests.

Payment Rules

The HFCWO system chest compression generator system is considered a capped rental item and is inclusive of the following:

- All accessories necessary to use the equipment except for the vest itself. This may be separately reimbursed during the initial rental period.
- Education on the proper use and care of the equipment.
- Routine servicing and all necessary repairs and replacements to make the equipment functional.

MPM, §2.15, April 1, 2010, pages 33, and 34¹

¹ This edition of the MPM is identical to the version in place at the time of Appellant's negative action notice.

* * *

The Department's witness testified that after receiving the request for a Vest from Appellant's provider, the Department reviewed the request and determined that there was inadequate information on other modalities tried and failed and that there was a lack of information on central/neuromuscular paralysis or how the vest would be used.

Furthermore, there was no diagnosis of cystic fibrosis as required under the MPM.

The Appellant's representative testified that the pediatrician told them that the Appellant had difficulty clearing his airway. He could not explain why requested information was not sent to the State of Michigan. The Appellant's representative said that the goal was to keep the Appellant out of the hospital.

On cross examination the Appellant's representative said that certain letters from physicians were prepared in the support of this request – however they were not reviewed in this instance as they were submitted post-petition and post-MSA review and denial. The letters were not part of this hearing record.

The Appellant's provider failed to submit necessary requested documentation about Appellant's specific circumstance and failed to establish medical necessity for a Vest, therefore the Department properly denied authorization High Frequency Chest Wall Oscillation Device.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly denied authorization for a Vest.

IT IS THEREFORE ORDERED THAT:

The Department's decision is AFFIRMED.

Dale Malewska
Administrative Law Judge
for Janet Olszewski, Director
Michigan Department of Community Health

cc: 

Date Mailed: 04/27/2010

Docket No. 2010-15561 PA
Decision & Order

***** 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.