

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

P.O. Box 30763, Lansing, MI 48909
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IN THE MATTER OF:

Docket No. 2010-25094 PA
Case No. [REDACTED]

[REDACTED],

Appellant

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge (ALJ) pursuant to MCL 400.9 and 42 CFR 431.200 *et seq.*, following the Appellant's request for a hearing.

After due notice, a hearing was held [REDACTED]. The Appellant was represented by [REDACTED] of [REDACTED] Medical & Rehabilitation.

The Department of Community Health was represented by [REDACTED], Medicaid Utilization Analyst.

ISSUE

Did the Department properly deny the Appellant's request for coverage for the Easy Stand Evolv Adult Stander?

FINDINGS OF FACT

Based upon the competent, material and substantial evidence presented, the Administrative Law Judge finds as material fact:

1. The Appellant is a [REDACTED] Medicaid beneficiary.
2. The Appellant is developmentally disabled and physically disabled. He is diagnosed from birth as profoundly mentally retarded, suffers seizure disorder and Cerebral Palsy. He has a thoracic Kyphosis and scoliosis. He is unable to ambulate.
3. The Appellant is non-verbal and unable to use external communication devices.
4. The physical ailments suffered by the Appellant result in a limited range of motion in his trunk and decreased rotation at his waist. He is unable to reposition himself independently, leaving him at increased risk for skin breakdown.

5. The Appellant has been able to engage in some limited amount of standing with the use of a gait trainer, obtained in [REDACTED]. The Appellant has begun standing on his toes, resulting in inability to effectively use the gait trainer to relieve pressure on his buttocks.
6. The Appellant is currently suffering irritation on his buttocks and is possibly developing stage I decubitis ulcers.
7. The Appellant is being trialed with an Easy Stand Evolv Youth size stander. He is able to tolerate some limited standing with its use, however, the frame is not large enough for his stature.
8. On [REDACTED], the Appellant requested prior authorization for an Easy Stand Adult stander.
9. The Michigan Department of Community Health (MDCH) denied the request, citing coverage limitations for standers to beneficiaries under the age of 21.
10. The MDCH sent a denial notice on or about [REDACTED].
11. The Appellant filed a Request for Hearing with the State Office of Administrative Hearings and Rules on or about [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 Medicaid Provider Manual addresses the coverage considerations and requirement that must be met for the specific service or medical item sought. Many items are subject to a prior authorization process. The overview at the outset of the Medical Suppliers Chapter apprises Medical suppliers that age limitations may be determinative in certain circumstances. At section 1.4 of the Medical Supplier section it states:

1.4 Age Limitations

Coverage may be different based on the beneficiary's age. For specifics of HCPCS codes and age parameters, refer to the Coverage Conditions and Requirements Section of this chapter and the MDCH Medical Supplier Database on the MDCH website.

The Medicaid Provider Manual addresses prior authorization in the General Information for Providers Chapter at Section 8-Prior Authorization.

8.1 General Information

There may be occasions when a beneficiary requires services beyond those ordinarily covered by Medicaid or needs a service that requires prior authorization (PA). In order for Medicaid to reimburse the provider in this situation, MDCH requires that the provider obtain authorization for these services before the service is rendered. Providers should refer to their provider-specific chapter for the PA requirements.

The Medical Supplier Chapter addresses the PA requirements for medical equipment requests. It states in pertinent part:

1.7 Prior authorization

Prior authorization (PA) is required for certain items before the item is provided to the beneficiary or, in the case of custom-made DME or prosthetic/orthotic appliance, before the item is ordered. To determine if a specific service requires PA, refer to the Coverage Conditions and Requirements Section of this chapter and/or the MDCH Medical Supplier Database on the MDCH website.

PA will be required in the following situations:

- Services that exceed quantity/frequency limits or established fee screen.
- Medical need for an item beyond MDCH's Standards of Coverage.
- Use of a Not Otherwise Classified (NOC) code.
- More costly service for which a less costly alternative may exist.
- Procedures indicating PA is required on the MDCH Medical Supplier Database.

1.7.F Age Parameters

Some services are only covered if the beneficiary is under the age of 21. For specifics regarding PA requirements and coverage, refer to the MDCH Medical Supplier Database on the MDCH website or the Coverage Conditions and Requirements Section of this chapter.

[REDACTED]
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This ALJ took testimony from the Appellant's representative regarding the need for an adult stander. The Department received the request for prior authorization for the beneficiary, who is [REDACTED]. Despite his apparent medical need for item and the obvious medical benefit he would derive from having it, the Department's coverage is limited to beneficiaries under the age of 21 for a stander. There is no policy supporting coverage for a stander for beneficiaries over the age of 21 in the Michigan Medicaid Provider Manual. The device sought is not a wheelchair, or a walker. It is for standing. This ALJ is without the authority to disregard the coverage limitations contained in the policy, nor does she have the authority to order the Department to use its discretion. This ALJ is forced to affirm the Department's determination that the equipment sought is not covered at this time.

After review of the documentation and testimony of all the witnesses, I cannot find that the Michigan Medicaid Policy coverage guidelines support a finding the EasyStand Evolv Adult Stander is a covered item.

IT IS THEREFORE ORDERED that:

The Department's decision is AFFIRMED.

Jennifer Isiogu
Administrative Law Judge
for Janet Olszewski, Director
Michigan Department of Community Health

cc: [REDACTED]

Date Mailed: 6/29/2010

***** 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 60 days of the mailing date of the Decision and Order or, if a timely request for rehearing was made, within 60 days of the mailing date of the rehearing decision.

