

**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. 2010-2701 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 the Medicaid Health Plan (MHP). ██████████, appeared as a witness for ██████████.

ISSUE

Did the Medicaid Health Plan properly deny Appellant's request for a bidet?

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 and is currently enrolled in the ██████████ (MHP).
2. The Appellant is a ██████████ woman with cerebral palsy who is non-verbal and has a history of pilonidal cyst surgery and rash (diaper). (Exhibit 1, p 4; Exhibit 2). The Appellant receives assistance with toileting, including cleaning after a bowel movement. (Exhibit 2).
3. On or around ██████████, a request for a bidet for the Appellant was received by the MHP. (Exhibit 1, Page 4)

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4. On ██████████, the MHP denied Appellant's request for a bidet. (Exhibit 1, pp 2-3). The MHP sent Appellant a written notice of denial which stated as a reason: Per the Michigan Department of Community Health Medical Supplier/DME Database, the requested item is not a covered benefit. (Exhibit 1, p 2).
5. On ██████████, the State Office of Administrative Hearings and Rules for the Department of Community Health received the Appellant's Request for Administrative Hearing submitted by the Appellant's mother/guardian. (Exhibit 2).

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.

On October 30, 1997, the Department received approval from the Health Care Financing Administration, U.S. Department of Health and Human Services, allowing Michigan to restrict Medicaid beneficiaries' choice to obtain medical services from specified Medicaid Health Plans.

The Respondent is one of those Medicaid Health Plans.

The covered services that the Contractor has available for enrollees must include, at a minimum, the covered services listed below (List omitted by Administrative Law Judge). The Contractor may limit services to those which are medically necessary and appropriate, and which conform to professionally accepted standards of care. Contractors must operate consistent with all applicable Medicaid provider manuals and publications for coverages and limitations. If new services are added to the Michigan Medicaid Program, or if services are expanded, eliminated, or otherwise changed, the Contractor must implement the changes consistent with State direction in accordance with the provisions of Contract Section I-Z.

*Article II-G, Scope of Comprehensive Benefit Package.
MDCH contract (Contract) with the Medicaid Health Plans,
Final FY 2008 Contract, p. 32.*

As stated in the above Department/MHP contract language, a MHP such as ██████████ may limit services as long as the limitations are consistent with applicable Medicaid provider manuals.

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The MHP witness, ██████████ testified that its durable medical equipment policy is consistent with Medicaid policy. The MHP witness, ██████████, explained that the MHP denial was based on the fact that a bidet is not a Medicaid-covered item and was not denied based on whether the bidet was medically necessary. The MHP submitted evidence that the MDCH Medicaid Medical Supplier/DME/Prosthetics and Orthotics Database does not cover bidets. (Exhibit 1, pp 5-7). The MHP witness stated that the reason the bidet was denied was because the Michigan Medicaid program does not cover bidets.

The Appellant's representative/mother testified that the Appellant's cerebral palsy requires use of a diaper and requires her mother to assist her in cleaning after a bowel movement. The Appellant's representative/mother explained that the Appellant had pilonidal surgery almost a year prior and the wound still had not healed. The Appellant's representative/mother stated that she believed a bidet would help her adequately clean the Appellant after bowel movement.

Medicaid Provider Manual (MPM) addresses the durable medical equipment (DME) policy coverages and limitations for Medicaid beneficiaries:

**1.2 MDCH MEDICAL SUPPLIER/DME/PROSTHETICS
AND ORTHOTICS DATABASE**

For specifics regarding the Health Care Financing Administration Common Procedure Coding System (HCPCS) codes used to denote covered services, refer to the MDCH Medical supplier/DME/Prosthetics and Orthotics Database on the MDCH website, hereafter referred to as the MDCH Medical Supplier Database.

MPM, Medical Supplier Chapter,
January 1, 2010, p 2; underline added

The MPM refers a provider to the MDCH Medicaid Medical Supplier/DME/Prosthetics and Orthotics Database in order to ascertain covered services and its code. The MHP provided credible evidence that it followed Medicaid policy and when referencing the DME Database found that several commodes were covered to assist with toileting but the bidet was not a Medicaid covered service.

The MHP may apply limitations as long as they are consistent to Medicaid Provider Manual and Database limitations. This Administrative Law Judge understands the reasons behind the assistance Appellant's mother is seeking, but does not have equitable jurisdiction to Order the MHP to provide a non-covered Medicaid service. The MHP provided sufficient evidence that a bidet is not a Medicaid covered service.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Medicaid Health Plan decision to not approve Appellant's request for a bidet was proper.

IT IS THEREFORE ORDERED that:

The Medicaid Health Plan's decision is AFFIRMED.

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

cc: 

Date Mailed: 1/12/2010

***** 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.