

**STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS & RULES
DEPARTMENT OF COMMUNITY HEALTH**

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IN THE MATTER OF:

Docket No. 2010-30760 PA
Case No. [REDACTED]

[REDACTED]
Appellant
_____ /

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Appellant's request for a hearing appealing the Department's decision to deny Appellant's request for prior authorization.

After due notice, a hearing was held [REDACTED]. The Appellant, who is a minor, was represented by his mother, [REDACTED], Appeals and Review Officer, represented the Michigan Department of Community Health (MDCH). The Department's witness was [REDACTED], Medicaid Utilization Analyst.

ISSUE

Did the Department properly deny Appellant's request for prior authorization?

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 [REDACTED] Medicaid beneficiary.
2. The Appellant is diagnosed with bronchial asthma and chronic bronchitis. He has had an abnormal CT scan of his lungs, revealing a linear density that is either scarring or chronic atelectasis.
3. The Appellant has had two (2) bronchoscopy procedures. The first showed purulent secretions from the vicinity of the right middle lobe. The Appellant suffers a chronic cough.
4. The Appellant has endured multiple respiratory illness that are protracted and render him incapacitated for 3-12 weeks at a time.
5. The Appellant had a negative sweat chloride test (no cystic fibrosis).

6. On [REDACTED], the Department received a prior authorization request for a High Frequency Chest Wall Oscillation System (the vest). The primary diagnosis listed on the request is asthma. The secondary diagnosis listed is bronchiectasis.
7. On [REDACTED], the request was denied as not meeting the standards of coverage. The Appellant was sent a written Notification of Denial.
8. On [REDACTED], the Department received Appellant's request for hearing.

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 percussion vest is categorized as Durable Medical Equipment (DME). . The Department has specific policy for the particular DME requested for the Appellant: the vest. The policy states:

2.15 HIGH FREQUENCY CHEST WALL OSCILLATION DEVICE

Definition

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 move 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.


*MDCH Medicaid Provider Manual,
Medical Suppliers Section, April 1, 2010,
pages 33 - 34.*

Department policy mandates that the vest can only be covered for a diagnosis of Cystic Fibrosis. Department policy may place such limitations on DME. The Department representative testified that the reason the Appellant's prior authorization request was denied was because his diagnosis is not cystic fibrosis, rather his diagnoses are: (stated by the physician who made the prior authorization request): asthma and bronchiectasis. While the Appellant's mother stated at hearing he does not have a diagnosis of bronchiectasis, she did not assert he does have a diagnosis of cystic fibrosis, which is required for coverage.

Although the Appellant's physician documented that the vest may help prevent frequent hospitalizations and institutionalization, the policy mandates that the criteria of a diagnosis of cystic fibrosis must be met before there can be Medicaid coverage. This ALJ has no choice but to affirm the Department's denial of coverage for the equipment sought, despite the obvious benefits for the Appellant. The authority of this ALJ is very limited and does not include any equitable jurisdictions or considerations.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department's denial of the requested medical equipment must be upheld.

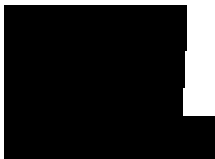

Docket No. 2010-30760 PA
Hearing Decision & Order

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:



Date Mailed: 7/2/2010

***** NOTICE *****

The Administrative Tribunal 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 Administrative Tribunal 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.

