STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
FOR THE DEPARTMENT OF COMMUNITY HEALTH
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IN THE MATTER OF:

[redacted],

Appellant

_____/

Docket No. 2010-35151 PA
Case No. [redacted]

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 [redacted]. [redacted], mother, appeared as the Appellant's representative. [redacted], Social Worker with Special Needs Program Children's Hospital of [redacted], [redacted], Assistive Technology Professional United Cerebral Palsy of Michigan, and [redacted], grandfather, appeared as witnesses for the Appellant.

[redacted], Appeals Review Officer, represented the Department. [redacted], Speech and Language Pathologist, appeared as a witness for the Department.

ISSUE

Did the Department properly deny the Appellant's prior authorization request for a speech generating device?

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] year old Michigan Medicaid/Children's Special Healthcare (CSHCS) beneficiary who has been diagnosed with cerebral palsy, mitochondrial disorder, dystonia choreoathetiod, dysarthria, and dysphagia. (Exhibit 1, pages 5-7, 9 and 15)

2. On [redacted], the Department received a prior approval-request for

a speech generating device for the Appellant from TOBII Assistive Technology Inc. (Department Exhibit 1, pages 7-16)

3. Medicaid policy requires extensive documentation for approval of a speech generating device. (Medicaid Provider Manual, Medical Supplier Section, 2.39 Speech Generating Devices, [redacted], pages 68-70; Medicaid Provider Manual, Outpatient Therapy Section, 5.3F Evaluations and Follow-Up for Speech Generating Devices, [redacted], pages 25-27)

4. On [redacted], the Department denied the prior authorization request because medical necessity and cost effectiveness were not supported by the submitted documentation. (Exhibit 1, pages 5-6 and Department Testimony)

5. On [redacted], the State Office of Administrative Hearings and Rules received the hearing request filed on the Appellant's behalf. (Department Exhibit 1, pages 2-4)

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 Standards of Coverage for a speech generating device can be found in the Medical Supplier section of the Medicaid Provider Manual:

2.39 SPEECH GENERATING DEVICES

Definition
A Speech Generating Device (SGD) is defined as any electric or nonelectric aid or device that replaces or enhances lost communication skills. The device must be an integral part of a treatment plan for a person with a severe communication disability who is otherwise unable to communicate basic functional needs.

Standards of Coverage

SGDs may be covered under the following conditions for beneficiaries who demonstrate the comprehension and physical skills necessary to communicate using the requested device.

- **Prosthetic Function -** To replace a missing body part, to prevent or correct physical deformity or malfunction, or to support a weak or deformed portion of the body.
- **Rehabilitative Function -** To restore communication skills to the previous functional level by providing a tool to the beneficiary.

A speech-language pathologist, in conjunction with other disciplines such as occupational therapists, physical therapists, psychologists, and seating specialists as needed, must provide a thorough and systematic evaluation of the beneficiary's receptive and expressive communication abilities.

Ancillary professionals must possess proper credentials (certification, license and registration, etc., as appropriate).

SGD vendors (manufacturers, distributors) may not submit assessment information or justification for any requested SGD.

Frequency - The program will purchase new equipment only. Only one SGD will be purchased within a three-year period for beneficiaries under age 21. Only one SGD will be purchased within five years for beneficiaries age 21 and older.

Exceptions may be considered in situations where there has been a recent and significant change in the beneficiary's medical or functional status relative to the beneficiary's communication skills.

Warranty - The warranty period begins at the point when the device is in the beneficiary's home and the beneficiary has received adequate training to use his system for functional communication.

Repairs - Repairs for speech generating devices (SGD) are covered after the warranty expires for no more than one SGD per beneficiary. Additionally, repair of an SGD not purchased by MDCH is covered only if the SGD is determined to be necessary to meet basic functional communication needs in accordance with the criteria for SGD coverage.

Documentation

Documentation must be within 90 days and include:

- Medical diagnosis. (The medical diagnosis must directly relate to the beneficiary's communication deficit.)
- Specifications for the SGD. (Refer to the Outpatient Therapy Chapter)

- Necessary therapy and training to allow the beneficiary to meet functional needs.

All SGD evaluation documentation must be submitted following the established criteria stated within the Evaluations and Follow-up for Speech Generating Devices subsection of the Outpatient Therapy Chapter.

Documentation for modifications must indicate the changes in the beneficiary's functional or medical status that necessitate the need for modifications in the system or parts.

When a current SGD needs replacement and the replacement is **identical** to the SGD previously purchased by MDCH, the documentation required is:

- Clinical confirmation of continued suitability by a speech-language pathologist.
- Clinical confirmation of ability to functionally access a SGD by a speech-language pathologist and occupational or physical therapist.
- Cost of the repair and the cost of replacement.

When a current SGD needs replacement and the replacement is **different** than the SGD previously purchased by the program, a new SGD Evaluation must be conducted. Additional documentation required is a statement that indicates how the current system no longer meets the beneficiary's functional communication needs. A current re-evaluation is required for any device that is not identical to the device being replaced.

For replacements due to loss or damage, indicate the following additional documentation:

- The cause of the loss or damage; and
- The plan to prevent recurrence of the loss or damage.

PA Requirements

The speech-language pathologist performs the functional communication assessment and SGD evaluation and initiates the PA request with a medical supplier that has a specialty enrollment with the MDCH to provide SGDs. To improve beneficiary access to low-end devices, a medical supplier without a SGD specialty enrollment with MDCH may provide SGDs with eight minutes or less of speech capability, basic SGD accessories such as switches, buttons, etc., or SGD wheelchair mounting systems. A SGD vendor must enroll through the MDCH CHAMPS PE on-line system as a medical supplier with a subspecialty of Speech Generating Devices in order to provide the

> full range of SGDs. (Refer to the Directory Appendix for contact information.)
>
> PA is required for all SGD systems. Required documentation must accompany the Special Services Prior Approval—Request/Authorization (MSA-1653-B) when requesting authorization for all original and replacement/upgrade SGD requests.
>
> A copy of the physician prescription must be submitted with the request for an SGD. The prescription must be based on the evaluation of an individual's communication abilities and medical needs made by a speech-language pathologist and other Evaluation team members (as appropriate).
>
> *MDCH Medicaid Provider Manual,*
> *Medical Supplier Section,*
> April 1, 2010, pages 68-69.
> (Exhibit 1, pages 28-29)

In the present case, the Department testified that some of the required documentation was missing from the Prior Authorization request for a speech generating device for the Appellant. Specifically, the Department's Speech and Language Pathologist stated that the primary missing criteria are the occupational/physical therapy evaluation/report as described in the chart under 5.3.F Evaluations and Follow-Up for Speech Generating Devices of the Outpatient Therapy section of the Medicaid Provider Manual. (Exhibit 1, page 27) The Department's Speech and Language Pathologist explained that the submitted documentation did not support that the requested device is the most cost effective to meet the Appellant's needs as required by section 1.5 Medical Necessity of the Medical Supplier section of the Medicaid Provider Manual. (Exhibit 1, page 17)

The adequacy of the documentation and Medicaid policy requirements were discussed in some detail during the hearing. The Appellant's representative and witnesses indicated that additional documentation exists to support the Appellant's request for the speech generating device. The Department indicted they would expedite a review of the Appellant's prior authorization request upon receipt of the additional documentation.

Based on the documentation submitted with the [redacted] prior authorization request the Appellant did not meet the Medicaid standards of coverage for a speech generating device. This does not mean that the Appellant would not benefit from the requested device or that she is not deserving of it, but only that the Medicaid policy does not allow for coverage without additional documentation. Accordingly, the Department's denial must be upheld. If they have not already done so, the Appellant's representative and witnesses should submit the additional information to the Department for an expedited review of the Appellant's request for a speech generating 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 the Appellant's [redacted] prior authorization request for a speech generating device based upon the submitted documentation.

IT IS THEREFORE ORDERED that:

The Department's decision is AFFIRMED.

Colleen Lack
Administrative Law Judge
for Janet Olszewski, Director
Michigan Department of Community Health

cc: [redacted]

Date Mailed: 8/11/2010

***** 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.