

**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. 2010-35179 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. ██████████ was also present and provided testimony.

██████████, represented the ██████████ Medicaid Health Plan (MHP). ██████████, and ██████████, appeared as witnesses for the MHP.

ISSUE

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

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 was enrolled in the ██████████ ██████████ in ██████████.
2. The Appellant is a ██████████ woman with a history of morbid obesity

(over 400 lbs with 4'11" height.) (Exhibit 1, p 16).

3. On ██████████, a request for a power wheelchair for the Appellant was received by the MHP. (Exhibit 1, p 11-23). The request was not accompanied by supporting medical documentation of a permanent and progressive condition or why she could not propel a manual wheelchair. (Exhibit 1, p 8). The MHP Medical director, an Internal Medicine doctor, reviewed the information. (Exhibit 1, p 8).
4. The supporting documentation indicated the Appellant could walk with a walker and had upper body strength and dexterity.
5. On ██████████, the MHP denied the request for a power wheelchair for the Appellant. The reason for denial in part was lack of supporting medical documentation. (Exhibit 1, p 8).
6. On ██████████, the MHP sent to the Appellant a notice of denial. (Exhibit 1, p 8-9).
7. On ██████████, the State Office of Administrative Hearings and Rules for the Department of Community Health received the Appellant's Request for Administrative Hearing. (Exhibit 1, p 6-7).

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 May 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 only 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 1-Z. (Bold emphasis added).

Article II-G, Scope of Comprehensive Benefit Package. MDCH contract (Contract) with the Medicaid Health Plans, September 30, 2004, Page 30.

As it says in the above Department - MHP contract language, a MHP may limit services to those that are medically necessary and that are consistent with applicable Medicaid provider manuals. The Medicaid Provider Manual places limitations on criteria for power wheelchairs. See Medicaid Provider Manual, Medical Supplier Section, July 1, 2010, 2.47 Wheelchairs. MHP witness ██████████ stated that the MHP policy limitations were consistent with Medicaid policy. A review of the Medicaid policy supports the MHP position that its criteria for power wheelchair coverage is consistent with Medicaid policy.

With regard to the contract allowing limitations on services such as only those services that are medically necessary, the federal regulations also state that Medicaid beneficiaries are only entitled to medically necessary Medicaid covered services. See 42 CFR 440.230.

The MHP witnesses testified it denied the request for a power wheelchair because there was no documentation she met the criteria needed for medical necessity. Specifically, the Appellant's request submitted by the medical equipment provider was not accompanied by supporting medical documentation of a permanent and progressive condition or why she could not propel a manual wheelchair. (Exhibit 1, p 8). The MHP Associate Medical Director reviewed the information and testified that the physical therapy evaluation showed upper body strength and dexterity to propel a manual chair, did not include an in-home assessment and showed she could walk with a walker. (Exhibit 1, pp 19-24).

The Appellant testified that she knows she is morbidly obese and needs to lose weight but she does not have longevity in her legs. The Appellant said her doctor did not report she used oxygen.

The MHP provided sufficient evidence that its medical necessity criteria for coverage of a power wheelchair was consistent with Medicaid policy and that the Appellant did not meet the criteria for a power wheelchair.

[REDACTED]
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DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Medicaid Health Plan properly denied Appellant's request for a power wheelchair.

IT IS THEREFORE ORDERED that:

The Medicaid Health Plan's decision is AFFIRMED.



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

cc:

[REDACTED]

Date Mailed: 8/4/2010

***** 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.