

**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. 2010-46438CL
Case No. ██████████**

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 upon the Appellant's request for a hearing.

After due notice, a hearing was held on ██████████. ██████████ appeared on behalf of the Appellant. ██████████, appeals review officer, represented the Department. Her witness was ██████████, Medicaid analyst..

ISSUE

Did the Department properly deny coverage of incontinence supplies?

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. (Appellant's Exhibit #1)
2. The Appellant is afflicted with ADHD, Bi polar disorder with manic depression. (Appellant's Exhibit #1 and See Testimony)
3. On ██████████, a nursing assessment was conducted by supplier ██████████ on the Appellant's request for diapers and incontinence supplies. (Department's Exhibit A, p. 2)
4. The request was reviewed by the Department and denied for lack of evidence that the Appellant met policy/criteria for coverage. (Department's Exhibit A, p. 2 and See Testimony of ██████████)

5. On ██████████, a letter was mailed to the Appellant advising her of the denial. She was further informed of her appeal rights. (Department's Exhibit A, p. 2)
6. On ██████████, the instant appeal was received by the State Office of Administrative Hearings and Rules (SOAHR). (Appellant's Exhibit #1)

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 Department policy for diaper and incontinent supply coverage is addressed in the Medicaid Provider Manual:

[] Incontinent Supplies

Incontinent supplies are items used to assist individuals with the inability to control excretory functions.

The type of coverage for incontinent supplies may be dependent on the success or failure of a bowel/bladder training program. A bowel/bladder training program is defined as instruction offered to the beneficiary to facilitate:

- Independent care of bodily functions through proper toilet training.
- Appropriate self-catheter care to decrease risk of urinary infections and/or avoid bladder distention.
- Proper techniques related to routine bowel evacuation.

Diapers, incontinent pants, liners, and belted/unbelted undergarments without sides are covered for individuals age three or older if both of the following applies:

- A medical condition resulting in incontinence and there is no response to a bowel/bladder training program.
- The medical condition being treated results in incontinence, and beneficiary would not benefit from or has failed a bowel/bladder training program.

Pull-on briefs are covered for beneficiaries age 3 through 20 when there is the presence of a medical condition causing bowel/bladder incontinence, and one of the following applies:

- The beneficiary would not benefit from a bowel/bladder program but has the cognitive ability to independently care for his/her toileting needs, or
- The beneficiary is actively participating and demonstrating definitive progress in a bowel/bladder program.

Pull-on briefs are covered for beneficiaries age 21 and over when there is the presence of a medical condition causing bowel/bladder incontinence and the beneficiary is able to care for his/her toileting needs independently or with minimal assistance from a caregiver.

Pull-on briefs are considered a short-term transitional product that requires a reassessment every six months. The assessment must detail definitive progress being made in the bowel/bladder training. Pull-on briefs covered as a long-term item require a reassessment once a year. Documentation of the reassessment must be kept in the beneficiary's file.

Incontinent wipes are covered when necessary to maintain cleanliness outside of the home. (Emphasis supplied)

Medicaid Provider Manual (MPM) Medical Supplier, July 1, 2010, page 42.

The Department witness testified that the Appellant did not qualify for the Incontinence Program because the Appellant was not incontinent every day. The Appellant's representative testified that she never said that the Appellant was having "only wetting problems". She added that there had been changes in the Appellant since the nursing assessment and the addition of a new medication, Seroquel.

She was instructed by the Department to contact ██████████ to report the Appellant's change in condition.

The evidence provided by the Department established that the Appellant, at the time of the nursing assessment, failed to demonstrate that she had a medical condition resulting in incontinence.

Therefore, the denial of coverage for Diaper and Incontinent Supplies Program must be upheld.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly the Appellant's request for participation in the Diaper and Incontinent Supply program.

IT IS THEREFORE ORDERED that

The Department's decision is **AFFIRMED**.

Dale Malewska
Administrative Law Judge
for Janet Olszewski, Director
Michigan Department of Community Health

cc:



Date Mailed: 10/28/2010

***** 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.