

**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. 2011-13390 QHP  
Case No. 60811879

**DECISION AND ORDER**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 42 CFR 431.200 *et seq.*, following the Appellant's request for a hearing.

After due notice, a hearing was held on ██████████. The Appellant, ██████████ ██████████ was present. Her ██████████ represented her. The Medicaid Health Plan (MHP), ██████████ was represented by ██████████ ██████████, and ██████████ were present as witnesses for the MHP.

**ISSUE**

Did the Respondent properly deny the Appellant's request for a seat lift mechanism to repair her lift chair?

**FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Respondent, ██████████ is a Department of Community Health contracted Medicaid Health Plan (MHP).
2. The Appellant is ██████████ Medicaid beneficiary, who is enrolled in the Respondent MHP.
3. The Appellant suffers from back and knee problems. (Testimony of ██████████)
4. A different health plan previously provided the Appellant with a lift chair. However, it stopped working. (Testimony of ██████████)

5. On ██████████, the MHP received a request for a seat lift mechanism for the Appellant's lift chair. (Exhibit 1, pages 2-5)
6. On ██████████, the MHP sent the Appellant notice that the request was denied because lift chairs, and therefore their repairs, are not a covered benefit. (Exhibit 1, pages 6-9)
7. On ██████████, the Appellant filed an expedited appeal of the denial. (Exhibit 1, pages 10-11)
8. The Appellant's expedited appeal was denied because the requested seat lift mechanism is a non-covered item. (Exhibit 1, pages 10-11)
9. On ██████████, the Department received the 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.

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. The Contractor 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 2.024.

*Section 1.022(E)(1), Covered Services.  
MDCH contract (Contract) with the Medicaid Health Plans,  
October 1, 2009.*

(1) The major components of the Contractor's utilization management (UM) program must encompass, at a minimum, the following:

- (a) Written policies with review decision criteria and procedures that conform to managed health care industry standards and processes.
- (b) A formal utilization review committee directed by the Contractor's medical director to oversee the utilization review process.
- (c) Sufficient resources to regularly review the effectiveness of the utilization review process and to make changes to the process as needed.
- (d) An annual review and reporting of utilization review activities and outcomes/interventions from the review.
- (e) The UM activities of the Contractor must be integrated with the Contractor's QAPI program.

(2) Prior Approval Policy and Procedure

The Contractor must establish and use a written prior approval policy and procedure for UM purposes. The Contractor may not use such policies and procedures to avoid providing medically necessary services within the coverages established under the Contract. The policy must ensure that the review criteria for authorization decisions are applied consistently and require that the reviewer consult with the requesting provider when appropriate. The policy must also require that UM decisions be made by a health care professional who has appropriate clinical expertise regarding the service under review.

*Section 1.022(AA), Utilization Management, Contract,  
October 1, 2009.*

As stated in the Department-MHP contract language above, a MHP "must operate consistent with all applicable Medicaid Provider Manuals and publications for coverages and limitations." The pertinent sections of the Michigan Medicaid Provider Manual (MPM) are as follows:

## **SECTION 1 – PROGRAM OVERVIEW**

### **1.10 Noncovered Items**

Items that are not covered by Medicaid include, but are not limited to:

\* \* \*

- Lift chairs, reclining chairs, vibrating chairs.

*Department of Community Health,  
Medicaid Provider Manual, Medical Supplier  
Version Date: October 1, 2010, page 17*

## **SECTION 8 – DELIVERY OF SERVICES**

### **8.3 NONCOVERED SERVICES**

When the beneficiary needs a medical service recognized under State Law, but not covered by Medicaid, the service provider and the beneficiary must make their own payment arrangement for that noncovered service.

*Department of Community Health,  
Medicaid Provider Manual,  
General Information for Providers  
Version Date: October 1, 2010, page 15*

The MHP explained that it denied the Appellant's request for the seat mechanism for her lift chair because it was bound to follow Medicaid policy, which specifically excludes coverage.

The Appellant testified that she needs her lift chair because of her problems with her knees and back. She further stated that she is unable to pay for the repair herself. And her ██████████ is unable to lift her out of chairs because of his own medical conditions. She stated that she fell three or four times last year.

While this Administrative Law Judge sympathizes with the Appellant's circumstances, the MHP's denial must be upheld. Policy in this case is clear: lift chairs, including their repair, are not covered by Medicaid. And this Administrative Law Judge has no authority to "make decisions on constitutional grounds, overrule statutes, overrule promulgated regulation[s] or overrule or make exceptions to Department policy." (Delegation of Hearing Authority, effective August 29, 2006)

### **DECISION AND ORDER**

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that that the MHP properly denied the Appellant's request for repair of her lift chair.

[REDACTED]  
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**IT IS THEREFORE ORDERED** that:

The Medicaid Health Plan's decision is **AFFIRMED**.

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Kristin M. Heyse  
Administrative Law Judge  
for Olga Dazzo, Director  
Michigan Department of Community Health

cc:

[REDACTED]

Date Mailed: 3/30/2011

**\*\*\* 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.