

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF COMMUNITY HEALTH**

P.O. Box 30763, Lansing, MI 48909
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IN THE MATTER OF:

████████████████████,

Appellant

_____ /

Docket No. 2011-18865 PA

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. Her witness was ██████████, ██████████, ██████████, represented the Department.

ISSUE

Did the Department properly deny Appellant's request for prior authorization (PA) of an E-Z Rider Stroller?

FINDINGS OF FACT

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

1. Appellant is a ██████████ Medicaid beneficiary with a diagnosis of autism. (Department's Exhibit A, p. 5 and Appellant's Exhibit #1)
2. On ██████████, the Appellant requested a Convoid E-Z Rider on prior authorization. (Department's Exhibit A, p. 5)
3. The prior authorization request was reviewed and denied on ██████████, stating: "Items used for the purpose of restraining the beneficiary for behavioral or other reasons are noncovered." (Department's Exhibit A, p. 5)
4. The Department witness said they notified the Appellant of the denial on ██████████. (Department's Exhibit A, p. 2 and See Testimony of ██████████)

5. On ██████████, the Appellant filed her Request for Hearing with the Michigan Administrative Hearing System for the Department of Community Health. 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 Medicaid Provider manual requires the satisfaction of preliminary requirements under prior authorization and establishes certain age thresholds:

PRIOR AUTHORIZATION

Prior authorization (PA) is required for certain items before the item is provided to the beneficiary or, in the case of custom-fabricated DME or prosthetic/orthotic appliances, before the item is ordered. To determine if a specific service requires PA, refer to the Coverage Conditions and Requirements Section of this chapter and/or the MDCH Medical Supplier Database on the MDCH website.

PA will be required in the following situations:

- Services that exceed quantity/frequency limits or established fee screen.
- Medical need for an item beyond MDCH's Standards of Coverage.
- Use of a Not Otherwise Classified (NOC) code.
- More costly service for which a less costly alternative may exist.
- Procedures indicating PA is required on the MDCH Medical Supplier Database.

Medicaid Provider Manual (MPM), Medical Supplier, §1.7, p. 8
April 1, 2011¹

¹ This edition of the MPM at §1.10 is identical to the version in place at the time of PA denial, ██████████
██████████

Noncovered Items

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

- Adaptive equipment (e.g., rocker knife, swivel spoon, etc.)
- Air conditioner
- Air purifier
- Devices used for play, pre-mobility development, or exercise are not considered pediatric mobility devices for the purpose of reimbursement and are not covered (e.g., jet mobile, ready racer, creepster crawler)
- Enteral formula to accommodate psychological or behavioral conditions, food preferences, allergies, loss of appetite, or noncompliance with a specialized diet
- Environmental Control Units
- Equipment not used or not used properly by the beneficiary
- Equipment for social or recreational purposes
- Exam tables/massage tables
- Exercise equipment (e.g., tricycles, exercise bikes, weights, mat/mat tables, etc.)
- Generators
- Hand/body wash
- Heating pads
- Home modifications
- Hot tubs
- House/room humidifier
- Ice packs
- Items for a beneficiary who is non-compliant with a physician's plan of care (or) items ordered for the purpose of solving problems related to noncompliance (e.g., insulin pump)
- Items used solely for the purpose of *restraining* the beneficiary for behavioral or other reasons
- Lift chairs, reclining chairs, vibrating chairs
- More than one pair of shoes on the same date of service
- New equipment when current equipment can be modified to accommodate growth
- Nutritional formula representing only a liquid form of food
- Nutritional puddings/bars
- Over-the-counter shoe inserts
- Peri-wash

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- Portable oxygen, when oxygen is ordered to be used at night only
- Power tilt-in-space or reclining wheelchairs for a long-term care resident because there is limited staffing
- Pressure gradient garments for maternity-related edema
- Prosthetic appliances for a beneficiary with a potential functional level of K0
- Regular or dietetic foods (e.g., Slimfast, Carnation instant breakfast, etc.)
- Room dehumidifiers
- School Items (e.g., computers, writing aids, book holder, mouse emulator, etc.)
- Second units for school use
- Second wheelchair for beneficiary preference or convenience
- Sensory Devices (e.g., games, toys, etc.)
- Sports drinks/juices
- Stair lifts
- Standard infant/toddler formula
- Therapy modalities (bolsters, physio-rolls, therapy balls, jett mobile)
- Thickeners for foods or liquids (e.g., Thick – it)
- Toothettes
- Transcutaneous Nerve Stimulator when prescribed for headaches, visceral abdominal pain, pelvic pain, or temporal mandibular joint (TMJ) pain
- Ultrasonic osteogenesis stimulators
- UV lighting for Seasonal Affective Disorder
- Vacu-brush toothbrushes
- Weight loss or "light" products
- Wheelchair lifts or ramps for home or vehicle (all types)
- Wheelchair accessories (e.g., horns, lights, bags, special colors, etc.)
- Wigs for hair loss

(Emphasis Supplied) MPM, §1.10, Noncovered items,
Medical Supplier, pp. 16-18, April 1, 2011

WHEELCHAIRS, PEDIATRIC MOBILITY AND POSITIONING MEDICAL DEVICES, AND SEATING SYSTEMS

[DEFINITIONS]

Wheelchair

A wheelchair has special construction consisting of a frame and wheels with many different options and includes, but is not limited to, standard, light-weight, high strength, powered, etc.

Pediatric Mobility Product

Pediatric mobility products are pediatric-sized mobility and positioning medical devices (as defined by PDAC) that have a special light-weight construction consisting of a frame and wheels/base with many different options. Pediatric mobility devices include pediatric wheelchairs, transport chairs, hi/low chairs with outdoor/indoor bases, and standing systems designed specifically for children with special needs. These products must meet the definition of Durable Medical Equipment (DME) (refer to the Program Overview section of this chapter) and are not available as a commercial product or for which a commercial product can be used as an economic alternative.

STANDARDS OF COVERAGE

[Manual Wheelchair in Community Residential Setting]

May be covered if **all** of the following are met:

- Has a diagnosis/medical condition that indicates a lack of functional ambulatory status and ambulates less than 150 feet within one minute with or without an assistive medical device.

[Pediatric Mobility Devices and Wheelchairs]

May be covered if **all** of the following are met for each type of device. For CSHCS beneficiaries, a medical referral from an appropriate board-certified pediatric subspecialist or an Office of Medical Affairs (OMA)-approved physician is

required. MDCH also reserves the right to require a medical referral from an appropriate board certified pediatric subspecialist for Medicaid beneficiaries.

For manual pediatric wheelchairs:

- Has a diagnosis/medical condition that indicates a lack of functional ambulatory status with or without an assistive medical device or has a willing and able caregiver to push the chair **and** the wheelchair is required in a community residential setting.
- Is required for long-term use (greater than 10 months).
- Must accommodate growth and adjustments for seating systems a minimum of 3" in depth and 2" in width.
- Is designed to be transportable.
- Is the most economic alternative available to meet the beneficiary's mobility needs.

For power wheelchairs:

- Lacks ability to propel a manual wheelchair, or has a medical condition that would be compromised by propelling a manual wheelchair, for at least 60 feet over hard, smooth, or carpeted surfaces (this includes the need to rest at intervals).
- Is able to safely control the wheelchair through doorways and over thresholds up to 1½".
- Has a cognitive, functional level that is adequate for power wheelchair mobility.
- Has visual acuity that permits safe operation of a power mobility device.
- Must accommodate growth and adjustments for custom-fabricated seating systems a minimum of 3" in depth and 2" in width.
- For a three-wheeled power mobility device, has sufficient trunk control and balance.

For transport mobility medical devices (e.g., strollers):

- Is over three years of age or has a medical condition that cannot be accommodated by commercial products.
- Will be the primary mobility device due to inability to self-propel a manual wheelchair or operate a power wheelchair.

- Is required as a transport device when the primary wheelchair cannot be designed to be transportable.
- Must accommodate growth and adjustments for seating systems a minimum of 3" in depth and 2" in width.
- Is the most economic alternative available to meet the beneficiary's mobility needs.
- Is required for use in the community residential setting.

(Emphasis supplied) MPM, §2.47A and B, *Supra*, pp. 81-84

A Medicaid beneficiary bears the burden of proving he or she was denied a medically necessary and appropriate service.

The evidence establishes that the Appellant sought an E-Z Rider Stroller for use as a restraining device. The Department witness explained that restraint devices are not covered DME and that the only type of "restraining device" permitted under Medicaid policy would be a car seat.

The Appellant's ████████ testified that the Appellant is able to undo a normal restraint and that he is, "smart enough to get out of anything." They added that they understood the prohibition on restraints – but that the ultimate use was intended to promote for mobility.

The Appellant failed to preponderate his burden of proof that the Department erred in denial of his request for PA of an E-Z Rider Stroller. The Department's decision was correct when made.

DECISION AND ORDER

Based on the above findings of fact and conclusions of law, I find that the Department's denial of Appellant's prior authorization request for the requested equipment was proper when made.

[REDACTED]
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IT IS THEREFORE ORDERED that:

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

Dale Malewska
Administrative Law Judge
for Olga Dazzo, Director
Michigan Department of Community Health

cc:

[REDACTED]

Date Mailed: 5/9/2011

***** NOTICE *****

The Michigan Administrative Hearing System 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 Michigan Administrative Hearing System 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.