

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF COMMUNITY HEALTH**
P.O. Box 30763, Lansing, MI 48909
(877) 833-0870; Fax: (517) 334-9505

IN THE MATTER OF:

██████████,

Appellant

_____ /

Docket No. 2011-32512 CL

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 ██████████ ██████████, the Appellant, appeared on his own behalf. ██████████ represented the Department. ██████████ Michigan Department of Community Health (MDCH) ██████████, appeared as a witness for the Department.

ISSUE

Did the Department properly deny coverage of pull-on briefs and incontinent wipes?

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 ██████ year-old Medicaid beneficiary.
2. On ██████████, and ██████████, the Department's contractor for the Diaper and Incontinent Supplies Program, attempted to obtain a prescription to renew the Appellant's incontinent supplies. (Exhibit 1, page 5)
3. On ██████████, the Department sent the Appellant an Advance Action Notice that pull-ons and wipes shall not be authorized because there was no prescription coverage on file. (Exhibit 1, page 4)
4. On ██████████ also issued a letter to the Appellant requesting the name and contact information for the Doctor the Appellant

was seeing to renew the prescription for his supplies. (Exhibit 1, page 3)

5. On ██████████, the Appellant's Request for Hearing was received.
(Exhibit 1, page 2)

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 regarding coverage of incontinence products, including pull-on briefs, is addressed in the MDCH Medicaid Provider Manual (MPM):

2.19 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.** (Emphasis added.)

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 or less frequently as determined by MDCH.

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.

Intermittent catheters are covered when catheterization is required due to severe bladder dysfunction.

Hydrophilic-coated intermittent catheters are considered for individuals that have Mitrofanoff stomas, partial stricture or small, tortuous urethras.

Intermittent catheters with insertion supplies are covered for beneficiaries who have a chronic urinary dysfunction for which sterile technique is clinically required.

Disposable underpads are covered for beneficiaries of all ages with a medical condition resulting in incontinence.

Documentation

Documentation must be less than 30 days old and include the following:

- Diagnosis of condition causing incontinence (primary and secondary diagnosis).
- Item to be dispensed.
- Duration of need.
- Quantity of item and anticipated frequency the item requires replacement.
- For pull-on briefs, a six-month reassessment is required.

*MDCH Medicaid Provider Manual,
Medical Supplier Section,
January 1, 2011, Pages 41-42.*

The Medicaid Provider Manual policy for incontinent supplies requires documentation less than 30 days old. The Contract Manager testified that once a prescription is received, the Department considers it valid for one year. ██████████, the Department's contractor for the Diaper and Incontinent Supplies Program attempted to obtain a new prescription for the Appellant before his current prescription expired. Attempts were made on ██████████ and ██████████. (Exhibit 1, page 5) The Contract Manager explained that after three attempts, a denial notice can be issued. In the present case, the Department issued Advance Action Notice to the Appellant on ██████████, indicating pull-ons and wipes would not be authorized effective ██████████ because there was no prescription coverage on file. ██████████ also issued a letter to the Appellant on ██████████ requesting the name and contact information for the Appellant's current doctor.

The Contract Manager testified that the Appellant's doctor faxed in a prescription, which was not valid because no diagnosis information was provided. The prescription was sent back to the Appellant's doctor on ██████████, requesting a diagnosis code. The Appellant's doctor had not returned a valid prescription as of the ██████████, hearing date. (Contract Manager Testimony)

The Appellant testified that his doctor only comes to see him once a month, unless more frequent visits are needed. He stated he did not know what the doctor needed to sign or where to send it. (Appellant Testimony) The Contract Manager explained what information is needed from the doctor and provided contact information for the head nurse at ██████████.

Based on the information provided, ██████████ made reasonable attempts to obtain a new prescription for the Appellant's incontinence supplies prior to the expiration of the current prescription on ██████████. As of the ██████████, hearing date, a valid prescription had not been submitted for the Appellant. Accordingly, the Department's denial must be upheld.

If he has not already done so, the Appellant should have his doctor submit a valid prescription to ██████████ for his incontinent supplies.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department's denial of coverage for pull-on briefs and incontinent wipes was in accordance with Department policy.

IT IS THEREFORE ORDERED that:

The Department's decision is AFFIRMED.

Colleen Lack
Administrative Law Judge
for Olga Dazzo, Director
Michigan Department of Community Health

cc: [REDACTED]

Date Mailed 7/21/2011

***** 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.