

**STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
FOR THE DEPARTMENT OF COMMUNITY HEALTH**

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IN THE MATTER OF:

████████████████████

**Docket No. 2011-3974 PA
Case No. 85901170**

Appellant

_____ /

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 ██████████. Appellant's ██████████, represented the Appellant. Appellant was present.

████████████████████, represented the Department. ██████████, appeared as a witness for the Department.

ISSUE

Did the Department properly deny coverage of Appellant's enteral nutrition (Ensure)?

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 Medicaid eligible.
2. Appellant is ██████████ woman with a history of stroke. (Exhibit 1).
3. In ██████████ the Department received a request for prior authorization of enteral nutrition (█████ cans per day for the time period ██████████.) (Exhibit 1, pages 9-10).
4. The request was reviewed by the Department and was determined that medical documentation required for approval was missing. The Department wrote to the requesting durable medical equipment provider (DME), ██████████, and specifically requested documentation of: 1)

Appellant's weight history for prior six months, 2) current lab result forms for albumin/protein, and 3) a physician statement that standard grocery items are ruled out even if pureed, including what foods the Appellant eats each day and how many total calories the foods eaten contained per day. (Exhibit 1, pages 6-10).

5. The DME provider contacted the Appellant's doctor but the doctor responded that it had only seen the Appellant one time. The DME provider faxed to the Department the documentation it obtained from the doctor. (Exhibit 1, pages 11-28).
6. The information from the doctor did not contain a physician statement that standard grocery items could be ruled out. (Exhibit 1, pages 11-28).
7. The information from the doctor showed that the Appellant was 4 feet and 11 inches and weighed 125 pounds in ██████████. The Department noted that the Appellant's weight and height equaled a body mass index of 25.1. Because the Appellant's body mass index is 25.1 she is considered to be overweight. (Exhibit 1, pages 21, 27).
8. The Department never received all of the requested missing information in order to approve the Ensure nutrition.
9. In ██████████ the Department sent Appellant a written notice of denial. (Exhibits 1, 2).
10. On ██████████, the Department received Appellant's request for an Administrative Hearing filed by ██████████. (Exhibit 1, page 3).

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 Medicaid Provider Manual lists the criteria that a Medicaid beneficiary must meet in order for Medicaid to cover enteral nutrition such as Ensure:

2.13.A. ENTERAL NUTRITION (ADMINISTERED ORALLY)

Enteral nutrition (administered orally) may be covered for beneficiaries under the age of 21 when:

- A chronic medical condition exists resulting in nutritional deficiencies and a three month trial is required to prevent gastric tube placement.
- Supplementation to regular diet or meal replacement is required, and **the beneficiary's weight-to-height ratio has fallen below the fifth percentile on standard growth grids.** (Underline added.)
- Physician documentation details low percentage increase in growth pattern or trend directly related to the nutritional intake and associated diagnosis/medical condition.

For CSHCS coverage, a nutritionist or appropriate subspecialist must indicate that long-term enteral supplementation is required to eliminate serious impact on growth and development.

Standards of Coverage

For beneficiaries age 21 and over:

- The beneficiary must have a medical condition that requires the unique composition of the formula nutrients that the beneficiary is unable to obtain from food.
- **The nutritional composition of the formula represents an integral part of treatment of the specified diagnosis/medical condition.**
- **The beneficiary has experienced significant weight loss.**

Documentation

Documentation must be less than 30 days old and include:

- Specific diagnosis/medical condition related to the beneficiary's inability to take or eat food.
- Duration of need.
- **Amount of calories needed per day.**
- **Current height and weight, as well as change over time. (For beneficiaries under 21, weight-to-height ratio.)**
- **Specific prescription identifying levels of individual nutrient(s) that is required in increased or restricted amounts.**

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- List of economic alternatives that have been tried.
- Current laboratory values for albumin or total protein (for beneficiaries age 21 and over only).

For continued use beyond 3-6 months, **the CSHCS Program requires** a report from a nutritionist or appropriate pediatric subspecialist.

PA Requirements PA is required for all enteral formula for oral administration.

MDCH Medicaid Provider Manual, Practitioner Section, January 1, 2011, page 32.


The Department's witness testified that Medicaid policy requires specific medical documentation before Ensure can be approved. The Department's witness testified there were several documentation items that were not included with the request for Ensure and that is why the prior authorization for Ensure was not approved: 1) Appellant's weight history for prior six months, 2) current lab result forms for albumin/protein, and 3) a physician statement that standard grocery items are ruled out even if pureed, including what foods the Appellant eats each day and how many total calories the foods eaten contained per day. (Exhibit 1, pages 7-10). The Department's witness stated that the missing information was requested from the DME provider but a significant amount of documentation was never received by the Department. (Exhibit 1, page 10). The Department's witness explained that information from the doctor showed that the Appellant was 4 feet and 11 inches and weighed 125 pounds in ██████████. The Department's witness noted that the Appellant's weight and height equal to body mass index of 25.1. The Department's witness explained that because the Appellant's body mass index is 25.1 she is considered to be overweight and therefore does not meet the inability to eat food or weight loss criteria for approval. (Exhibit 1, pages 21, 27).

The Appellant's ██████████ testified that the Appellant had received Ensure paid for by Medicaid in the past and she wanted her ██████████ to have Ensure now. The Appellant's ██████████ stated that the Appellant would see her doctor soon.

The Appellant bears the burden of proving by a preponderance of evidence that she met all of the criteria for approval of enteral nutrition. The Appellant did not meet her burden of proof that she had met all the medical documentation criteria for approval.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department acted in accordance to policy when denying coverage of Appellant's enteral nutrition.


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IT IS THEREFORE ORDERED THAT:

The Department's decision is AFFIRMED.

Lisa K. Gigliotti
Administrative Law Judge
for Olga Dazzo, Director
Michigan Department of Community Health

cc: 

Date Mailed: 2/1/2011

***** 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.