

**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. 2011-13484 CL
Case No. 014054531

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's ██████████ appeared on the Appellant's behalf. ██████████ represented the Department. ██████████, appeared as a witness for the Department.

ISSUE

Did the Department properly deny coverage of additional incontinent wipes?

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 Appellant is a Medicaid beneficiary.
2. The Appellant is ██████████, who is incontinent of his bowels and bladder. He suffers from Leukodystrophy. (Exhibit 2; Testimony of ██████████)
3. The Appellant's mother has the following medical conditions: diabetes, arthritis, and a heart condition. (Testimony of ██████████)
4. On ██████████, a nursing assessment was conducted as a result of a request for incontinent supplies, including wipes, for the Appellant. The Appellant's ██████████ reported that the Appellant goes outside of the house once a week. She requested two boxes of wipes. (Testimony of ██████████; Exhibit 1, page 5)

5. The Department approved the request for other incontinent supplies for the Appellant, but it only approved one box of incontinent wipes. One box includes 50 wipes. (Testimony of [REDACTED])
6. Department policy only allows for coverage of incontinent wipes when necessary to maintain cleanliness outside of the home. MDCH Medicaid Provider Manual, Medical Supplier Section, July 1, 2010, page 42. (Exhibit 1, page 8)
7. On [REDACTED] the Department sent the Appellant an Adequate Action Notice, advising that the quantity of incontinent wipes requested was not authorized because the amount requested exceeded the Appellant's need, given that he is only outside of the home one day per week. (Exhibit 1, page 3)
8. On [REDACTED], the Department received the Appellant's Request for Hearing. (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 wipes, is addressed in the MDCH Medicaid Provider Manual:

2.19 INCONTINENT SUPPLIES

Definition

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.

Standards of Coverage (Applicable to All Programs)

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.

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

*MDCH Medicaid Provider Manual,
Medical Supplier Section,
October 1, 2010, pages 41-42*

The Department's witness testified that during the ██████████ telephone assessment, it was reported that the Appellant only goes outside the home one day per week. (See Exhibit 1, page 4) She explained that the Appellant does not qualify for the two boxes of incontinent wipes that was requested because they are only covered to maintain cleanliness outside of the home. She further testified that wipes are considered to be an item of convenience because a washcloth with soap and water will work just as well.

The Appellant's ██████████ and representative disagrees with the Department's policy to not cover the use of wipes in the home. She explained that the alternative—using a soapy washcloth—is not as hygienic or feasible. In addition, she explained that she has medical conditions of her own that make it difficult to clean the Appellant with a soapy washcloth.

While this Administrative Law Judge sympathizes with the Appellant's circumstances, I, unfortunately, do not have the constitutional or equitable authority to change or override Department policy, and the applicable policy in this area is clear: incontinent wipes are only covered to maintain cleanliness outside of the home. The evidence in this case supports the finding that the Appellant only qualifies for one box of incontinent wipes because he is only outside the home one day per week. Accordingly, the Department's denial 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's denial of coverage for additional incontinent wipes was in accordance with Department policy criteria. In other words, its approval of one box of wipes was proper.

IT IS THEREFORE ORDERED that:

The Department's decisions are **AFFIRMED**.

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

[REDACTED]
Docket No. 2011-13484 CL
Decision and Order

cc:

[REDACTED]
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Date Mailed: 3/28/2011

***** 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.