

**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. 2011-13491 CL
Case No. 72646437

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 her own behalf. ██████████, appeared as a witness for the Appellant. ██████████, represented the Department. ██████████

██████████ Michigan Department of Community Health (MDCH) ██████████
██████████, appeared as a witness for the Department.

ISSUE

Did the Department properly deny coverage of 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 ██████████ Medicaid beneficiary.
2. The Appellant has been diagnosed with multiple sclerosis and has functional incontinence. (Exhibit 1, page 4)
3. On ██████████, a nursing assessment was conducted as a 12 month update for the Appellant. The Appellant reported she that uses the incontinent wipes at home and does not stay out long enough to need to change or catheterize while out. (Exhibit 1, page 4)
4. Department policy only allows for coverage of incontinent wipes when necessary to maintain cleanliness outside of the home. Medicaid Provider Manual, Medical Supplier Section, January 1, 2011, page 42.
5. On ██████████, the Department sent the Appellant an Advance Action Notice that the incontinent wipes shall not be authorized effective

[REDACTED], because the information provided did not support coverage of this service. (Exhibit 1, page 3)

6. 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 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.

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, January 1, 2011, Pages 41-42.*

During the ██████████, telephone nursing assessment, the Appellant reported that she uses the wipes at home and does not stay out long enough to need to change or catheterize while out. (Exhibit 1, page 4) The MDCH Manager explained that the Appellant does not qualify for incontinent wipes because these are only covered to maintain cleanliness outside of the home.

The Appellant testified that she does not use the wipes outside of the house, but she disagrees with the denial. The Appellant stated that she is wheelchair bound, and needs to use the wipes to clean herself to catheterize. She explained that she

catheterized in the bed and would get a urinary tract infection if she catheterized without cleaning herself first. The Appellant lives alone and can not carry soap and water to her bed to be able clean her self before catheterizing. (Appellant Testimony) The Appellant's caregiver also testified that it is better for the Appellant to have wipes as the Appellant can access these from her bed.

While this ALJ sympathizes with the Appellant's circumstances, she must review the action taken by the Department under the existing Medicaid policy. The applicable policy in this area is clear, incontinent wipes are only covered to maintain cleanliness outside of the home. Department policy does not allow for coverage of wipes in the Appellant's circumstance, use with incontinence care in the home. 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 incontinent wipes was in accordance with Department policy criteria.

IT IS THEREFORE ORDERED that:

The Department's decisions are AFFIRMED.

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

cc: 

Date Mailed: 4/11/2011

***** 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.