

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. 2011-54449 QHP
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.*, following the Appellant's request for a hearing.

After due notice, a telephone hearing was convened ██████████. It was adjourned for good cause for the Appellant, reconvened and completed ██████████. The Appellant represented herself.

The Medicaid Health Plan (MHP), ██████████, was represented by ██████████. The MHP's witness was ██████████.

ISSUE

Did the MHP properly determine that the Appellant does not meet the eligibility criteria for a power wheelchair?

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 and is enrolled in ██████████ (uncontested)
2. The Appellant is a ██████-year-old woman who is diagnosed with arthritis, peripheral neuropathy and difficulty ambulating. (uncontested).
3. The Appellant walks inside of her home with the use of wheeled walker or cane.
4. On ██████████, a request for a power wheelchair for the Appellant

was received by the MHP. (uncontested).

5. The documentation submitted does not indicate the Appellant is unable to propel a manual wheelchair. It does not indicate the Appellant is unable to safely walk with a walker at least 50 feet inside of her home.
6. The documentation submitted with the request for a power wheelchair/scooter indicates the Appellant has shoulder strength of 4/5 bilaterally, elbows 4/5 to 5/5. Her grip is within functional limits on the left, weaker on the right. Her gait is described as independent from waiting room to evaluation room, 50 feet with straight cane in left hand, with a standby assist given due to somewhat unsteady gait pattern. Her steps were noted as sometimes unequal in size.
7. On ██████████ the MHP denied the request for a power wheelchair for the Appellant. The reason cited was the Appellant's ability to ambulate at least 50 feet inside of her home. No reported inability to use a manual wheelchair or wheeled walker.
8. On ██████████, the Michigan Administrative Hearing System for the Department of Community Health received the Appellant's Request for Administrative Hearing.

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.

On May 30, 1997, the Department received approval from the Health Care Financing Administration, U.S. Department of Health and Human Services, allowing Michigan to restrict Medicaid beneficiaries' choice to obtain medical services only from specified MHPs.

The Respondent is one of those MHPs.

The covered services that the Contractor has available for enrollees must include, at a minimum, the covered services listed below (List omitted by Administrative Law Judge). The Contractor may limit services to those which are medically necessary and appropriate, and which conform to professionally accepted standards of care. The Contractor must operate consistent with all applicable Medicaid provider

manuals and publications for coverages and limitations. If new services are added to the Michigan Medicaid Program, or if services are expanded, eliminated, or otherwise changed, the Contractor must implement the changes consistent with State direction in accordance with the provisions of Contract Section 2.024.

*Section 1.022(E)(1), Covered Services.
MDCH contract (Contract) with the Medicaid Health Plans,
October 1, 2009.*

- (1) The major components of the Contractor's utilization management (UM) program must encompass, at a minimum, the following:
 - (a) Written policies with review decision criteria and procedures that conform to managed health care industry standards and processes.
 - (b) A formal utilization review committee directed by the Contractor's medical director to oversee the utilization review process.
 - (c) Sufficient resources to regularly review the effectiveness of the utilization review process and to make changes to the process as needed.
 - (d) An annual review and reporting of utilization review activities and outcomes/interventions from the review.
 - (e) The UM activities of the Contractor must be integrated with the Contractor's QAPI program.

- (2) **Prior Approval Policy and Procedure**

The Contractor must establish and use a written prior approval policy and procedure for UM purposes. The Contractor may not use such policies and procedures to avoid providing medically necessary services within the coverages established under the Contract. The policy must ensure that the review criteria for authorization decisions are applied consistently and require that the reviewer consult with the requesting provider when appropriate. The policy must also require that UM decisions be made by a health care professional who has appropriate clinical expertise regarding the service under review.

*Section 1.022(AA), Utilization Management, Contract,
October 1, 2009.*

As stated in the Department-MHP contract language above, a MHP “must operate consistent with all applicable Medicaid Provider Manuals and publications for coverages and limitations.” The pertinent section of the Michigan Medicaid Provider Manual states:

[M]anual wheelchairs will be covered if the beneficiary demonstrates all of the following:

- Has a diagnosis/condition that indicates a lack of functional ambulatory status.
- Must be able to regularly use the wheelchair throughout the day.
- Must be able to be positioned in the chair safely and without aggravating any medical condition or causing injury.
- Must have a method to propel wheelchair, which may include:
 - Ability to self-propel for at least 60 feet over hard, smooth, and carpeted surfaces.
 - Willing, able, and reasonable caregiver to push the chair if needed.

* * *

Power wheelchairs or Power Operated Vehicles (POV) may be covered if the beneficiary demonstrates all of the following:

- Lacks ability to propel a manual wheelchair or has a medical condition that would be compromised by propelling a manual one for at least 60 feet over hard, smooth, or carpeted surfaces.
- Requires the use of a wheelchair for at least four hours throughout the day.
- Able to safely control a wheelchair through doorways and over thresholds put to one-and one-half inches (e.g., the beneficiary’s cognitive and physical abilities to safely operate the wheelchair).

MDCH may consider coverage of a POV, including custom or modified seating, rather than a more expensive power wheelchair if the beneficiary has sufficient trunk control and balance necessary to safely operate the device. Has a

diagnosis/condition that indicates a lack of functional ambulatory status.

* * *

Noncovered Items

- Secondary wheelchairs for beneficiary preference or convenience.
- Standing wheelchairs for beneficiaries over 21 years old.
- Coverage of power tilt-in-space or recline for a long-term care resident because there is limited staffing.
- Non-medical wheelchair accessories such as horns, lights, bags, etc.
- New equipment when current equipment can be modified to accommodate growth.

Documentation The documentation must be within 180 days, and include the following:

- Diagnosis appropriate for the equipment requested.
- Occupational therapy or physical therapy evaluation and recommendation.
- Brand and model of requested wheelchair.
- If a replacement wheelchair is requested, list brand, model, serial number and age of current chair.
- Medical reason for add-on components or modifications, if applicable.
- Specific medical condition (e.g., contractures, muscle strength) if seating system requested.
- Current ambulatory status of beneficiary (e.g., distance the individual can walk, the level of assistance required).
- Any adaptive or assistive devices currently used (if replacement chair is requested, list brand, model, serial number and age of current chair).
- Other cost-effective alternatives that have been ruled out.
- A pediatric subspecialist is **required under the CSHCS Program.**

*Department of Community Health,
Medicaid Provider Manual, Medical Supplier
Version Date: April 1, 2010, Pages 79-83*

In this case, the Appellant's physician requested a power wheelchair on the Appellant's behalf, citing a physical therapy report. The Appellant's doctor indicates the Appellant has difficulty with ambulation due to neuropathy, arthritis and can be unsteady with her gait. There is no documentation she was evaluated for use of manual wheelchair or is otherwise unable to propel a manual wheelchair at least 60 feet inside of her home.

The eligibility criteria for a power wheelchair are set forth above. A power wheelchair is approved if it is established the beneficiary is unable to functionally operate a manual wheelchair. Functionally operating a manual wheelchair is explained in policy as:

- Lacks ability to propel a manual wheelchair or has a medical condition that would be compromised by propelling a manual one for at least 60 feet over hard, smooth, or carpeted surfaces.

Here, the Appellant's ability to propel a manual wheelchair was not assessed or reported to the MHP.

The Appellant testified she uses a wheeled walker inside of her home but needs the power scooter or wheelchair for use in stores. She stated she has no endurance and fears falling. She reported hypoglycemia. She further reported her wheeled walker has a seat.

The credible evidence of record establishes the Appellant is able to functionally ambulate inside of her home with the use of a wheeled walker. There is no evidence she is unable to use a manual wheelchair. She does not meet the criteria for coverage of a power wheelchair or scooter.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the MHP properly denied Appellant's request for a power wheelchair.

IT IS THEREFORE ORDERED that:

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

Jennifer Isiogu
Administrative Law Judge
for Olga Dazzo, Director
Michigan Department of Community Health

[REDACTED]
Docket No. 2011-54449 QHP
Decision and Order

cc:

[REDACTED]

Date Mailed: 12/27/2011

***** 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.