

**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. 2011-9018 PA
Case No. 18344571

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

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

ISSUE

Did the Department properly deny coverage of Appellant's negative pressure wound therapy (pump and supplies)?

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 eligible.
2. The Appellant is ██████████ with a history of breast cancer and related surgeries. (Exhibit 1)
3. On ██████████, the Department received a request for prior authorization of negative pressure wound therapy (pump and supplies) (Exhibit 1, pages 7-14). Attached to the request was six pages of medical documentation.

4. Negative pressure wound therapy is a Medicaid covered service when the Medicaid beneficiary's physician provides a statement and clinical notes to demonstrate a trial and failure of less expensive wound treatment modalities. (Exhibit 1, pages 16-17).
5. The request was reviewed by the Department who determined that medical documentation required for approval was missing. The Department noted that the requesting Durable Medical Equipment provider (DME) failed to provide a physician's statement and clinical notes to document that a trial and failure of less expensive treatment modalities had occurred. (Exhibit 1, pages 7-14).
6. In ██████████, the Department sent the Appellant a written notice of denial. (Exhibits 1, page 2).
7. On ██████████, the Department received the Appellant's request for an Administrative Hearing. (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 negative pressure wound therapy. (Exhibit 1, pages 16-17). As noted in the Medicaid Provider Manual, negative pressure wound therapy is a Medicaid covered service when the Medicaid beneficiary's physician provides a statement and clinical notes to demonstrate a trial and failure of less expensive wound treatment modalities:

2.23 NEGATIVE PRESSURE WOUND THERAPY (PUMP AND ACCESSORIES)

Definition

Negative pressure wound therapy (NPWT) utilizes a sub-atmospheric (negative) pressure technique to reduce edema, increase localized blood flow and granulation tissue formation, and remove exudates from the wound. The NPWT pump must be able to apply pressure intermittently or continuously in a range from 25-125 mmHG and accommodate multiple wounds.

Standards of Coverage

Negative pressure wound therapy is covered for short-term therapy (7 to 14 days) if one of the following conditions applies and failure of several less expensive treatment modalities has occurred:

- Stage III or IV pressure ulcer(s) -
 - Beneficiary has been part of a comprehensive ulcer management program (e.g., appropriately turned and positioned, appropriately managed for either moisture or incontinence, received adequate nutritional support, etc.) for at least the last 30 days.
 - Beneficiary has used either a Group 2 or 3 Support Surface for at least the last 30 days.

- Diabetic Ulcers - Beneficiary has been on a comprehensive diabetic management program.
- Venous stasis ulcers -
- Compression bandages have been applied consistently.
- Mobility and leg elevation have been encouraged.
- Dehisced incisions or traumatic wounds - Wound care clinical protocols have been ineffective.

Documentation

All documentation, except wound measurements, must be less than 30 days old.

Documentation of wound measurements must be less than seven days old and include the following:

- Evaluation, care and wound measurements by a licensed medical professional.
- All previous dressings tried.
- Debridement of necrotic tissue, if applicable.
- Evaluation and provision of adequate nutritional status.
- Appropriate turning/repositioning schedule.
- Incontinence management, if applicable.
- Appropriate pressure reduction addressed if wound is pressure related.

Continued Coverage For continued coverage beyond the initial 7 to 14 days, documentation must be submitted

detailing updated wound measurements and substantiate continued effectiveness.

PA Requirements PA is required for all requests.

Payment Rules A negative pressure wound therapy pump is a **rental only** service. Payment for the pump is considered as a daily rental rate by reporting total number of days used as units. The canister and dressing set are considered **purchase** items and may be separately reimbursed from the pump code. (Underline added by ALJ).

MDCH Medicaid Provider Manual, Medical Supplier, October 1, 2010, pages 48-49.

The Department's witness testified that several criteria had to be met before Medicaid funds could be used to cover the negative pressure wound vacuum and treatment items. The Department's witness testified that she received a request for coverage of the rental of a negative pressure wound vacuum for the Appellant submitted by the durable miracle equipment supplier. The Department's witness explained that the request was accompanied by six pages of documents. The Department's witness testified that she reviewed all the pages of the documents looking to fulfill the criteria set forth by the Department, but several critical items were missing from the information supplied by the durable miracle equipment supplier.

The Department's witness testified that in order for Medicaid dollars to be used to cover the negative pressure wound vacuum there had to be medical documentation that all less expensive treatment modalities had been tried and failed. The Department's witness pointed out that in the six pages of documentation provided with the request for coverage, there was only one treatment described and the treatment described was packing of the wound with gauze. (Exhibit 1, page 11). The Department's witness noted that there was no physician prescription requesting negative pressure wound treatment because other treatment modalities had failed.

The Appellant's [REDACTED] testified that the request for authorization did contain a physician prescription stating that all other treatment modalities had been tried and failed and the negative pressure or wound vacuum was the only option left.

The Department's witness clarified that there was only one physician prescription supplied with the prior authorization request and that although the physician prescription requested negative pressure wound vacuum and supplies, the prescription did not address a physician's concern that other treatment modalities had failed and the negative pressure vacuum was the only treatment modality left.

A review of the documentation submitted with the request for authorization for a negative pressure wound vacuum shows that there was only one physician prescription attached. Close scrutiny of the one physician prescription establishes that the prescription only described a request for the negative pressure wound vacuum and

supplies, and did not document that the treatment was ordered because less expensive treatments had failed.

The Appellant's ██████████ further asserted that the Appellant has been using gauze dressing every day. The Department did not dispute that the Appellant had been using gauze dressing every day, and pointed out that there was documentation of that type of treatment in the information forwarded with the prior authorization request. However, the Department's witness emphasized that this was the only treatment documented in the information forwarded with the prior authorization request.

The Appellant's ██████████ challenged the Department's witness and asserted that the Appellant has had an open wound for over a year and has been driving 100 miles to get hyperbaric treatments for her wound. The Department's witness responded that it is limited to the information it had at the time of the prior authorization request and that the Appellant's request did not include any information about hyperbaric treatment or any other treatment outside the gauze dressing. The Department's witness testified that the entire request for authorization and attached information was reviewed by a licensed physician in the Department of Community Health and the licensed physician concurred with the Department's witness that the information failed to provide a list of less expensive treatments that had been tried and failed.

The Appellant bears the burden of proving by a preponderance of evidence that she met all of the criteria for approval of negative pressure wound therapy. The Appellant did not meet her burden of proof that she and the Durable Medical Equipment supplier provided all the medical documentation criteria for approval. The preponderance of credible evidence in this case established that the Appellant did not provide the medical documentation necessary for prior authorization of negative pressure wound therapy.

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 prior authorization of Appellant's negative pressure wound therapy.

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

[REDACTED]
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Decision and Order

cc:



Date Mailed: 3/30/2011

***** 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.