

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. 2012-41234 CL

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.*, upon the Appellant's request for a hearing.

After due notice, a hearing was held on ██████████. ██████████, the Appellant's mother, appeared on the Appellant's behalf. ██████████, Appeals Review Officer, represented the Department of Community Health (Department). ██████████, Department of Community Health (Department) Contract Manager for Diaper and Incontinence Program appeared as a witness for the Department.

ISSUE

Did the Department properly deny the Appellant's prior authorization request for pull-on briefs?

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 a ██████ year-old Medicaid beneficiary.
2. The Appellant's medical history includes diagnoses of cerebral palsy, severe cognitive impairment and seizure disorder.
3. On ██████████, after receiving a request for pull-ups ██████████, the Department's contractor for the Diaper and Incontinent Supplies Program, conducted a telephone nursing assessment.
4. On ██████████, ██████████ contacted the Appellant's mother (Appellant's caregiver). The Appellant's mother informed ██████ staff that the Appellant will walk to the bathroom and will pull on and off his pull-ons when he has to use the bathroom. The Appellant mother informed ██████████

that the Appellant is on a two hour toileting schedule at home and she believes he was on the same schedule at school. Pull-ups were requested because the Appellant would have to lie down to change cloth diaper and doing so is not practical at home and at school. The Appellant wants to replace the Appellant's current pull-ons because the Appellant has sensitive skin and does not like the way the current pull-ons feel on his skin.

5. On ██████████, the Department sent the Appellant an Adequate Action Notice that the Appellant was not eligible for pull-ons because he has received pull-ons since ██████████ and has made no definitive progress with his toileting skills as evidenced by his request for the same amount of pull-ons ██████████.
6. On ██████████, the Michigan Administrative Hearing System received the Appellant's Request for 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.

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.** (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.

Intermittent catheters are covered when catheterization is required due to severe bladder dysfunction.

Hydrophilic-coated intermittent catheters are considered for individuals that have Mitrofanoff stomas, partial stricture or small, tortuous urethras.

Intermittent catheters with insertion supplies are covered for beneficiaries who have a chronic urinary dysfunction for which sterile technique is clinically required.

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

Documentation

Documentation must be less than 30 days old and include the following:

- Diagnosis of condition causing incontinence (primary and secondary diagnosis).
- Item to be dispensed.
- Duration of need.
- Quantity of item and anticipated frequency the item requires replacement.
- For pull-on briefs, a six-month reassessment is required.

*MDCH Medicaid Provider Manual,
Medical Supplier Section,
January 1, 2011, Pages 41-42.*

The Department's witness, ██████████, testified that based on the information reported during the ██████████, telephone assessment, the Appellant did not meet coverage criteria for pull-ons. Applicable Medicaid coverage criterion for pull-on coverage requires the Medicaid beneficiary's medical need for pull-ons to be assessed every six months. ██████████ testified that coverage criteria require active participation in a toileting program and definitive progress in that program. ██████████ testified that the Appellant has been receiving pull-ons since ██████████ and since that time has requested the same amount of pull-ons. ██████████ testified that the Appellant is participating in a toileting program but there is no evidence that definitive progress has been made. ██████████ testified that on ██████████, ██████████, the Department's pediatric consultant reviewed the Appellant's prior authorization request and the ██████████ nursing assessment. ██████████ testified that ██████████ notes are provided on page 4 of the Department's exhibit and shows that ██████████ determined that the Appellant no longer met Medicaid coverage criteria for pull-ons.

The Appellant's mother testified that the Appellant is on a two hour toileting schedule but still requires pull-ons. The Appellant's mother testified that the Appellant is ██████████ years old and will not lie down to change cloth diapers. The Appellant's mother testified that she understands the policy but the Appellant needs his pull-ons.

In response, [REDACTED] testified that coverage criteria for pull-ons provides that pull-ons are only for short term use and the Appellant must be making definitive progress in his toileting program for coverage to continue. [REDACTED] testified that the Appellant has been using pull-ons for [REDACTED] and the amount of pull-on requested has not decreased during the time period.

I find based on the evidence presented that the Department properly determined that the Appellant has been using the same amount of pull-ons since [REDACTED] and is not making definitive progress with his toileting program. The evidence presented shows that the Appellant's use of pulls-ons would be used to maintain rather than progress in his toileting skills. I find that the Department correctly applied policy and properly determined that the Appellant no longer met Medicaid coverage criteria for pull-ons.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly denied the Appellant's prior authorization request for pull-ons.

IT IS THEREFORE ORDERED that:

The Department's decision is AFFIRMED.

Martin D. Snider
Administrative Law Judge
for Olga Dazzo, Director
Michigan Department of Community Health

cc: [REDACTED]

Date Mailed 05/14/12

***** 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.