

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:

██████████ Case

Docket No. 2012-42827 CL
No. ██████████

Appellant
_____ /

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 ██████████. ██████████ appeared. ██████████

(Department). ██████████

██████████ 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 ██████████ Medicaid beneficiary.
2. The Appellant has a medical history of urinary incontinence.
3. On ██████████ J&B Medical, the Department's contractor for the Diaper and Incontinent Supplies Program, sent the Appellant's physician, ██████████ a request for certification of the Appellant's medical need for pull-ons.
4. On ██████████ telephoned ██████████ office to obtain a Certificate of Medical Need (CMN) of the Appellant's need for pull-ons. ██████████ office was closed.

5. On ██████████ the Department sent the Appellant an Adequate Action Notice that the Appellant was not eligible for pull-ons because the Appellant's physician did not provide a CMN which include the required medical information.
6. On ██████████ the Appellant's physician ██████████ sent ██████████ a prescription for the Appellant's pull-ons but the prescription did not include the Appellant's diagnosis, duration of the prescription, the beneficiary's ID number, and the Appellant's date of birth.
7. 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, [REDACTED] testified that based on the information provided by [REDACTED] contractor for the Diaper and Incontinent Supplies Program, sent the Appellant's physician [REDACTED] a request for certification of the Appellant's medical need for pull-ons. [REDACTED] testified that the Appellant's physician, [REDACTED], did not provide an adequate Certificate of Medical Need (CMN). On [REDACTED] J&B terminated the Appellant's coverage for pull-ons. On [REDACTED] [REDACTED] submitted a prescription for the Appellant for pull-ons. [REDACTED] testified that the prescription did not include the following policy required information: secondary diagnosis, duration of the request, beneficiary I.D., and Appellant's date of birth.

The Appellant testified that he currently uses one pull-one per day due to his urinary incontinence and that he has only a few boxes remaining. The Appellant testified that his physician, [REDACTED] is no longer in the country and the Appellant's new physician is [REDACTED]. The Appellant testified that [REDACTED] completed a prescription on [REDACTED] for the Appellant's pull-ons.

[REDACTED] testified that coverage criteria for pull-ons provides that the CMN from a physician must include a primary diagnosis, secondary diagnosis, duration, date of signature, beneficiary name, beneficiary I.D. and date of birth, physician name, and the specific items prescribed. [REDACTED] testified that the Appellant should show his physician the information provided page 5 of the hearing Exhibit 1. The Appellant testified that he understands the policy and will provide the information to his physician.


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Decision and Order

I find based on the evidence presented that the Department properly determined that the CMN provided by the Appellant's physician did not properly document the Appellant's medical need 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: 

Date Mailed _____

***** 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.