

**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

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Docket No. 2012-30104 CL

██████████

██████████

**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 ██████████. ██████████, husband, appeared on the Appellant's behalf. ██████████, Appeals Review Officer, represented the Department. ██████████, Contract Manager, 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 a ██████ year-old Medicaid beneficiary.
2. The Appellant's medical history includes MS and quadriplegia. (Exhibit 1, page 6)
3. On ██████████, ██████████, the Department's contractor for the Diaper and Incontinent Supplies Program, conducted a telephone nursing assessment with the Appellant's husband, who requested additional incontinent wipes for the Appellant. ██████████ notes indicate it was reported that the Appellant is not changed when outside the home. (Exhibit 1, page 7)

4. On ██████████, the Department sent the Appellant an Adequate Action Notice stating that additional boxes of wipes shall not be authorized because the information provided did not support coverage of this service. (Exhibit 1, page 5)
5. On ██████████ a Request for Hearing was filed on the Appellant's behalf. (Exhibit 1, page 4)

## **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**

#### **Definition**

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.

#### **Standards of Coverage (Applicable to All Programs)**

**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.

**Standards of Coverage (Not Applicable to CSHCS Only Beneficiaries)**

**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.

### **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, 2012, Pages 41-42.*

The Department's witness testified that under the Department policy, the Appellant did not meet the criteria for incontinent wipes based on the information reported during the ██████████, telephone nursing assessment. She explained that the Department's policy only allows for coverage of incontinent wipes when necessary to maintain cleanliness outside of the home. The information provided by the Appellant's husband indicated that the Appellant is not changed outside the home. (Exhibit 1, page 7) The Contract Manager provided examples of when wipes would be necessary to maintain cleanliness outside the home, such as attending an adult day care program or when out of the home for medical appointments. The Department denied the Appellant's request for incontinent wipes based provided information; specifically that she is not changed when outside the home. (Contract Manager Testimony)

The Appellant's husband disagrees with the denial. His testimony acknowledged that the Appellant is not changed outside the home, other than when they stay a few days at the cabin up north or with their daughter. Rather, the Appellant's husband testified that they use wipes for incontinence care in the home. The Appellant's husband disagrees with the Department's policy because it does not allow for what is needed to maintain health and cleanliness. He explained the difficulties and concerns with using wash rags, particularly in light of the open wounds the Appellant has. (Husband Testimony)

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

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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.

**IT IS THEREFORE ORDERED** that:

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

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

cc:

[REDACTED]

Date Mailed \_\_\_3-20-12\_\_\_\_\_

**\*\*\* 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.