

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF COMMUNITY HEALTH**

P.O. Box 30763, Lansing, MI 48909
(517) 335-2484; Fax: (517) 373-4147

IN THE MATTER OF:

██████████,

Appellant

Docket No. 2012-68147 PA
Case No. ██████████

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37, and upon the Appellant's request for a hearing.

After due notice, a hearing was held ██████████. ██████████ Appellant's ██████████ appeared and testified on Appellant's behalf. Appellant was also present during the hearing, but did not participate. ██████████, Registered Nurse and Medical Analyst, represented the Department of Community Health ("DCH" or "Department").

ISSUE

Did the Department properly deny Appellant's Prior Authorization requests?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. Appellant is an ██████ year-old male who has been diagnosed with scoliosis and spinal muscular atrophy. (Respondent's Exhibit A, pages 19, 58).
2. Appellant has received services and equipment through the Department in the past, including a "Special Tomato" chair used for daily activities and a stroller. (Uncontested testimony during hearing).
3. On or about ██████████, the Department received a Prior Authorization request on behalf of Appellant for a Convoid Rodeo manual mobility device with accessories. (Respondent's Exhibit A, pages 19-44).
4. On ██████████, the Department received a Prior Authorization request on behalf of Appellant for a Rifton Hi-Lo Activity Chair with accessories. (Respondent's A, pages 58-68).

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5. On or about [REDACTED], [REDACTED] reviewed the requests along with some additional information submitted on behalf of Appellant. (Respondent's Exhibit A, pages 45-57; Testimony of [REDACTED])
6. Based on the information submitted, [REDACTED] decided that the Prior Authorization requests should be denied. (Testimony of [REDACTED])
7. Souders also consulted with a MDCH physician, who concurred with the denials. (Respondent's Exhibit A, pages 7, 12-13; Testimony of [REDACTED])
8. On [REDACTED], the Department sent Appellant a written notification of the denial of the request for a Rodeo stroller-style wheelchair and accessories. (Respondent's Exhibit A, pages 8-11).
9. That same day, the Department also sent Appellant a written notification of the denial of the request for Rifton Hi-Lo Activity Chair with accessories. (Respondent's Exhibit A, pages 14-18).
10. On [REDACTED], the Michigan Administrative Hearing System (MAHS) received a request for hearing filed on behalf of the Appellant. (Respondent's Exhibit A, pages 3-6).

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.

Medicaid covered benefits are addressed for the practitioners and beneficiaries in the Medicaid Provider Manual (MPM). With respect to Prior Authorization requests, the MPM states:

1.10 PRIOR AUTHORIZATION

Medicaid requires Prior Authorization (PA) to cover certain services before those services are rendered to the beneficiary. The purpose of PA is to review the medical need for certain services. It does not serve as an authorization of fees or beneficiary eligibility. Different types of services requiring PA include:

- Procedures identified as requiring PA on the procedure code databases on the MDCH website;

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- Procedures/items that are normally non-covered but may be medically necessary for select beneficiaries (e.g., surgery normally cosmetic in nature, obesity surgery, off-label use drugs, etc.); and
- Referrals for elective services by out-of-state non-enrolled providers. [MPM, Practitioner Chapter, Sections 1.10.]

Here, as discussed above, there were two Prior Authorization requests made on behalf of Appellant: a request for a Rodeo stroller-style wheelchair and a request for a Rifton Hi-Lo Activity Chair. Each Prior Authorization and denial will be addressed in turn. For the reasons discussed below, this Administrative Law Judge finds that both denials should be affirmed.

Stroller-style Wheelchair Request

As discussed above, in ██████████, the Department received a Prior Authorization request on behalf of Appellant for a Convaid Rodeo manual mobility device with accessories. According to that request, Appellant already has a power wheelchair and stroller. The request also states that the wheelchair has broken down in the past and that Appellant needs a replacement in order to go to school when that happens. The request further states that Appellant has outgrown his stroller and that he spends 6-8 hours a day in the home. (Respondent's Exhibit A, pages 23-28). The Department subsequently sent Appellant a written notification of the denial of the request for a Rodeo stroller-style wheelchair and accessories. (Respondent's Exhibit A, pages 8-11).

Appellant's representative then filed a written Request for Hearing. The Request for Hearing regarding denial of stroller similarly provides that Appellant needed a stroller-style wheelchair for transport to school in case his primary wheelchair is broken; transport for him in crowded areas, such as churches, malls or carnivals; and for visits at his ██████████ house and other homes that are not wheelchair accessible (Respondent's Exhibit A, pp. 5-6).

With respect to that request, the Department's representative first asserted that Appellant's Prior Authorization request identifies a non-covered place of service. As stated in the MPM, "Medicaid covers medical supplies, durable medical equipment (DME), orthotics, and prosthetics **for use in the beneficiary's place of residence** except for skilled nursing or nursing facilities." (MPM, Medical Supplier Chapter, Section 1.3 (emphasis added)). Here, it is undisputed that Appellant's request stated that the stroller was to be used during school, crowded places outside the home, and other homes not wheelchair accessible. As the medical equipment was not to be used in the beneficiary's place of residence, the Department properly denied the Prior Authorization request.

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Additionally, the Department's representative also testified as to why Appellant's request failed to demonstrate a medical necessity for the stroller or that Appellant was seeking a covered service. Regarding medical necessity, the MPM provides:

1.5 MEDICAL NECESSITY

Medical devices are covered if they are the most cost-effective treatment available and meet the Standards of Coverage stated in the Coverage Conditions and Requirements Section of this chapter.

The medical record must contain sufficient documentation of the beneficiary's medical condition to substantiate the necessity for the type and quantity of items ordered and for the frequency of use or replacement. The information should include the beneficiary's diagnosis, medical condition, and other pertinent information including, but not limited to, duration of the condition, clinical course, prognosis, nature and extent of functional limitations, other therapeutic interventions and results, and past experience with related items. Neither a physician's order nor a certificate of medical necessity by itself provides sufficient documentation of medical necessity, even though it is signed by the treating physician.

Information in the medical record must support the item's medical necessity and substantiate that the medical device needed is the most appropriate economic alternative that meets MDCH standards of coverage.

Medical equipment may be determined to be medically necessary when all of the following apply:

- The service/device meets applicable federal and state laws, rules, regulations, and MDCH promulgated policies.
- It is medically appropriate and necessary to treat a specific medical diagnosis, medical condition, or functional need, and is an integral part of the nursing facility daily plan of care or is required for the community residential setting.
- The function of the service/device:
 - > meets accepted medical standards;

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- > practices guidelines related to type, frequency, and duration of treatment; and
- > is within scope of current medical practice.
- It is inappropriate to use a nonmedical item.
- It is the most cost effective treatment available.
- The service/device is ordered by the treating physician, and clinical documentation from the medical record supports the medical necessity for the request (as described above) and substantiates the physician's order.
- The service/device meets the standards of coverage published by MDCH.
- It meets the definition of Durable Medical Equipment (DME), as defined in the Program Overview section of this chapter.
- Its use meets FDA and manufacturer indications.

Medicaid will not authorize coverage of items because the item(s) is the most recent advancement in technology when the beneficiary's current equipment can meet the beneficiary's basic medical/functional needs. [MPM, Medical Supplier Chapter, Section 1.5.]

Moreover, regarding specific non-covered services, the MPM states in part:

1.10 NONCOVERED ITEMS

Items that are not covered by Medicaid include, but are not limited to:

* * *

- Custom seating for secondary and/or transport chairs

* * *

- Second units for school use

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- Second wheelchair for beneficiary preference or convenience

* * *

- Wheelchair lifts or ramps for home or vehicle (all types) . . . [MPM, Medical Supplier Chapter, Section 1.10.]

In this case, to the extent Appellant even seeks a stroller-style wheelchair for use in the home, Appellant seeks non-covered services and his request failed to demonstrate a medical necessity for a stroller-style wheelchair. It is undisputed that Appellant possesses and uses a power wheelchair as his primary wheelchair.¹ Moreover, his primary residence is wheelchair accessible and Appellant can use the primary power wheelchair in the home. Consequently, while the Prior Authorization request states that Appellant has outgrown his stroller and that he spends 6-8 hours a day in the home, it is not clear as to why he would not be spending that that time in his power wheelchair when there is nothing wrong with that wheelchair. A second wheelchair for preference, convenience, and or back-up for the primary wheelchair when the primary wheelchair is in need of repair, is non-covered. (MPM, Medical Supplier Chapter, Section 1.10.)

While the existence and use of the power wheelchair is not disputed, the Prior Authorization states and Appellant's representative testified that the wheelchair has broken before and Appellant needs a replacement in order to go to school when that happens. However, as testified to by [REDACTED] it is the responsibility of the primary wheelchair provider, here [REDACTED], Inc., to supply a temporary replacement when necessary. The MPM also specifically states that second units for school use are non-covered.

Appellant bears the burden of proving by a preponderance of the evidence that the Department erred in denying his Prior Authorization requests. With respect to the stroller-style manual wheelchair, Appellant has failed to meet that burden for the reasons described above and the Department's decision must be affirmed

Activity Chair Request

Appellant requested a Rifton Hi-Lo Activity Chair with accessories, but that request was also denied. Appellant had been authorized a "Special Tomato" chair used for daily activities in the past.

The Letter of Medical Necessity dated [REDACTED] signed by Appellant's doctor and physical therapist and submitted along with the Prior Authorization request for the Rifton Hi-Lo Activity Chair (Respondent's Exhibit A, pages 60-62) notes that Appellant

¹It is also undisputed that, by the time of the hearing, Appellant has been approved for a new power wheelchair, but has not received it.

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was using a power wheelchair at the time while also discussing how Appellant has outgrown his Special Tomato chair. The letter further states that Appellant needs the use of the tray attached as part of that activity chair in order to interact with others, complete his schoolwork, and use assistive technology. The letter further provides that a tray is necessary to accommodate writing, assistive technology, and play activities. Additionally, the letter states that the Hi-Lo base of the activity chair would allow Appellant to participate in floor level activities and then be able to be raised up to different desk or table legs.²

As testified to by ██████████ and stated in the Standards of Coverage found in the MPM, an activity chair may be approved for positioning and mobility needs. (Testimony of ██████████ MPM, Medical Supplier Chapter, Section 2.47B). However, those needs were clearly not the basis for request submitted in this case. Instead, the Prior Authorization request sought the activity chair so that Appellant could complete schoolwork and other activities, as well as interacting with others. Given the basis of the request for the activity chair, it must be denied. The MPM specifically outlines a number of non-covered items and those non-covered items include equipment for social or recreational purposes as well as school items (*e.g.*, computers, writing aids, book holder, mouse emulator, *etc.*). (MPM, Medical Supplier Chapter, Section 1.10).

To the extent Appellant's representative was seeking the activity chair as an indoor wheelchair, the letter of medical necessity did not identify any problems with the current chair and, in any event, Appellant has been approved for a new chair. Appellant's representative testified that Appellant has not yet received his new chair despite it being approved months ago, though another appointment was scheduled in ██████████. Respondent's representative could only state in response that the wheelchair had been approved and it is the responsibility of Appellant's provider to supply it. Respondent's representative also urged to speak with her provider as soon as possible as the approval would expire in ██████████.

Appellant bears the burden of proving by a preponderance of the evidence that the Department erred in denying his Prior Authorization requests. With respect to the activity chair, Appellant has failed to meet that burden given the basis for the request and the Department's decision must be affirmed.

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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 requests.

²Similarly, the request for hearing filed on behalf of Appellant stated that his wheelchair is not comfortable enough for him to spend all day in and that he needs a tray for Appellant to do schoolwork or any activity. (Respondent's Exhibit A, page 4).

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IT IS THEREFORE ORDERED that:

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

/s/

Steven Kibit
Administrative Law Judge
for James K. Haveman, Director
Michigan Department of Community Health

cc:



Date Mailed: January 18, 2013

***** 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 60 days of the mailing date of the Decision and Order or, if a timely request for rehearing was made, within 60 days of the mailing date of the rehearing decision.