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) 373-4147

IN THE MATTER OF:

[redacted],

Docket No. 2013-10328 PA
Case No. [redacted]

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 [redacted]. The Appellant, [redacted], was represented by [redacted]. She had no witnesses. [redacted], R.N., represented the Department/PRD. She had no witnesses.

ISSUE

Did the Department properly deny Appellant's request for repairs to her SNUG SEAT CHEETAH manual transport wheelchair?

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 [redacted] year-old Medicaid beneficiary. (Appellant's Exhibit 1)

2. The Appellant is afflicted with Metabolic Mitochondrial disorder and dystonia. (Appellant's Exhibit 1 and Department's Exhibit A, p. 25)

3. The Appellant has need for social skills, social interaction and physical development through utilization of a properly fitted SNUG SEAT CHEETAH manual wheelchair. (Appellant's Exhibit I)

4. On [redacted] the Department requested additional information and a letter of medical necessity from the supplier (Department's Exhibit A, pp. 4 through 9)

5. That information was returned on [redacted] via an amended PA. It was reviewed by the PRD and denied on [redacted]. (Department's Exhibit A, p. 11)

6. The Department representative said the PA was denied chiefly because a medical mobility device is not covered for purpose of back-up to the beneficiary's primary medical mobility device. (*See* Testimony and Department's Exhibit A, p. 46)

7. The Appellant's representative said that the Appellant's chair was not purchased in Michigan, but rather [redacted]. (*See* Testimony and Appellant's Exhibit 1)

8. The Department's denial was reviewed and concurred in by [redacted] MDCH/MSA.[1] (Department's Exhibit A, p. 47)

9. The Department's representative testified that the Department might cover a transport chair – but not the CHEETAH. She added that if the chair is in disrepair it is the provider's responsibility to take it out of service and provide a loaner while repairs are being made. Repairs and replacement of parts being the Department's responsibility only when those items have been purchased by the Department. (*See* Testimony of Souder and Department's Exhibit A, p. 46)

10. The instant request for hearing was received by the Michigan Administrative Hearing System (MAHS) for the Department of Community Health on [redacted]. (Appellant's Exhibit 1)

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.

It is axiomatic that the Medicaid program exists to ensure that medically necessary services and equipment are made available to those who would not otherwise have the resources to purchase them. It is also fundamental that Medicaid is payor of last resort and always covers the least costly alternative that meets the beneficiary's medical need.

The Medicaid Provider Manual (MPM) provides, in pertinent part, as follows:

> **MEDICAL NECESSITY**
>
> Medical devices are covered if they are the most cost-effective treatment available and meet the Standards of

[1] In this instance, while harmless error, the MSA physican reviewer utilized [or was provided] the wrong edition [April 2012] of the MPM for her August 16, 2012 review. Several changes to the Medical Necessity standard were introduced in the July 1, 2012 edition of the MPM [for this amended PA submitted on July 28, 2012]. *See* Department's Exhibit A, pp. 10 and 47

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:

- Within applicable federal and state laws, rules, regulations, and MDCH promulgated policies.
- Medically appropriate and necessary to treat a specific medical diagnosis or 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.
- Within accepted medical standards; practice guidelines related to type, frequency, and duration of treatment; and within scope of current medical practice.
- Inappropriate to use a nonmedical item.
- The most cost effective treatment available.
- It 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.
- It 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. MPM, Medical Supplier, §1.5, April 1, 2012, pages 4, 5. (*See* FN 1, above)

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2.47 WHEELCHAIRS …

[2.47.B. STANDARDS OF COVERAGE]

Manual Wheelchair in Community Residential Setting

May be covered if **all** of the following are met:

- Has a diagnosis/medical condition that indicates a lack of functional ambulatory status and ambulates less than 150 feet within one minute with or without an assistive medical device.
- Must be able to regularly use the wheelchair throughout the day.
- Must be able to be positioned in the chair safely and without aggravating any medical condition or causing injury.
- Purchase of a wheelchair is required for long-term use (greater than 10 months).
- Must have a method to propel wheelchair, which may include:
    - Ability to self-propel for at least 60 feet over hard, smooth, or carpeted surfaces.
    - The beneficiary has a willing and able caregiver to push the chair if needed.

In addition:

A **standard hemi-wheelchair** may be covered when a lower seat to the floor is required.

A **standard light-weight wheelchair** may be covered when the beneficiary is unable to propel a standard wheelchair due to decreased upper extremity strength or secondary to a medical condition that affects endurance.

A **heavy-duty standard wheelchair** may be covered if the beneficiary's weight is more than 250 pounds but does not exceed 300 pounds.

An **extra heavy-duty standard wheelchair** is covered if the beneficiary's weight exceeds 300 pounds.

A **high-strength light-weight or ultra-light standard wheelchair** may be covered when required for a specific functional need.

A **back-up or secondary standard manual wheelchair** may be considered when:

- The beneficiary is primarily a power wheelchair user but needs a manual wheelchair to have access to the community or independent living.
- The beneficiary's medical condition requires a power wheelchair that cannot accommodate public transportation and, therefore, requires another transport device.

Pediatric Mobility Devices and Wheelchairs

May be covered if **all** of the following are met for each type of device. For CSHCS beneficiaries, a medical referral from an appropriate board-certified pediatric subspecialist or an Office of Medical Affairs (OMA)-approved physician is required. MDCH also reserves the right to require a medical referral from an appropriate board-certified pediatric subspecialist for Medicaid beneficiaries.

For manual pediatric wheelchairs:

 Has a diagnosis/medical condition that indicates a lack of functional ambulatory status with or without an assistive medical device or has a willing and able caregiver to push the chair **and** the wheelchair is required in a community residential setting.

 Is required for long-term use (greater than 10 months).

 Must accommodate growth and adjustments for seating systems a minimum of 3" in depth and 2" in width.

 Is designed to be transportable.

 Is the most economic alternative available to meet the beneficiary's mobility needs.[2]

....

MPM *supra*

[2] Furthermore, under policy; "Repairs and Replacement Parts [change made 4/1/12] Repairs and the replacement of component parts for DME owned by the beneficiary are reimbursable if MDCH purchased the item. If MDCH did not purchase the original item, it must be medically necessary, meet the Standards of Coverage detailed in this chapter and include the required supporting documents." (Emphasis supplied) *See* MPM §1.8.C Medical Supplier, at page 13.

In the present case, the Appellant's representative explained that her daughter needed a Snug Seat Cheetah transport manual wheelchair adjustment to accommodate her growth and to enable her to have use of a transportable manual wheelchair wherein the Appellant might benefit from the necessary physical exercise on operation and the social development results obtained through ease of access to the non-wheelchair community.

She added that the Cheetah is portable/transportable and useful in a non-wheelchair accommodating household – thus widening the Appellant's social and recreational opportunities.

The Department's witness, [redacted], testified that on review of the amended PA she denied the request for lack of demonstrating medical necessity, lack of purchase in Michigan and policy prohibiting the purchase of back-up wheelchairs. She said the responsibility lies with the provider to provide a loaner while repairs are made.

On review, the Appellant failed to preponderate her burden of proof to establish that the Department improperly denied her request for repairs and adjustment to a Snug Seat Cheetah manual wheelchair. The Department correctly observed in its evidence and at hearing that the requested item/service was not covered under policy.

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 request for adjustment and repairs Snug Seat Cheetah manual wheelchair.

IT IS THEREFORE ORDERED that:

The Department decision is AFFIRMED.

\s\
Dale Malewska
Administrative Law Judge
for James K. Haveman, Director
Michigan Department of Community Health

[redacted]

cc: [redacted]

Date Signed: [redacted]

Date Mailed: [redacted]

***** 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.