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. 2013-10515 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]. [redacted], mother, represented the Appellant. [redacted], Appeals Review Officer, represented the Department. [redacted], Medicaid Utilization Analyst, appeared as a witness for the Department.

ISSUE

Did the Department properly deny the Appellant's prior authorization request for a Rifton activity chair and accessories?

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 who has been diagnosed with infantile cerebral palsy and epilepsy. (Exhibit 2, page 9)

2. On or about [redacted], the Department received a prior authorization request for a Rifton activity chair and accessories for the Appellant. (Exhibit 2, pages 11 and 14-17)

3. On [redacted], the Department requested additional information. (Exhibit 1, pages 11-12)

4. On or about [redacted], Department received the resubmitted prior authorization request, with response to the request for additional information. (Exhibit 1, pages 9-13 and 18-20)

5. On [redacted], the Department issued a Notification of Denial to the Appellant stating the prior authorization request was denied because: the information provided indicated the Appellant's mobility device is not used within his place of residence and the requested Rifton activity chair is for the purpose of school and learning activities, social interaction, as well as psychological and physiological well-being; the information provided did not support medical necessity for the Rifton activity chair and accessories; and durable medical equipment for purpose of school, therapy, developmental, sensory, exercise, and/or recreational activities and for preference and/or convenience has been determined by the Department to not be medically necessary and is non-covered. This notice indicated the Appellant could submit a new request for the most economical alternative choice of chair, without a Hi-Lo option base, for purpose of the Appellant's use within his place of residence that meets his positioning for oral feeding need and meets the policy requirements. (Exhibit 1, pages 7-8)

6. On [redacted], the Michigan Administrative Hearing System received the hearing request filed on the Appellant's behalf. (Exhibit 1) Additional documentation was submitted by the Appellant's mother on [redacted] and [redacted]. (Exhibits 3 and 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 Medicaid Provider Manual provides, in pertinent part, as follows:

> **SECTION 1 – PROGRAM OVERVIEW**
>
> This chapter applies to Medical Suppliers/Durable Medical Equipment and Orthotists/Prosthetists.
>
> Providers of Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) must be enrolled as a Medicare provider effective September 30, 2009. (Refer to the General Information for Providers chapter for additional information.)
>
> The primary objective of the Medicaid Program is to ensure that medically necessary services are made available to those

who would not otherwise have the financial resources to purchase them.

The primary objective of the Children's Special Health Care Services (CSHCS) Program is to ensure that CSHCS beneficiaries receive medically necessary services that relate to the CSHCS qualifying diagnosis.

This chapter describes policy coverage for the Medicaid Fee-for-Service (FFS) population and the CSHCS population. Throughout the chapter, use of the terms Medicaid and MDCH includes both the Medicaid and CSHCS Programs unless otherwise noted.

Medicaid covers the least costly alternative that meets the beneficiary's medical need for medical supplies, durable medical equipment or orthotics/prosthetics.

* * *

Durable Medical Equipment (DME)

DME are those items that are Food and Drug Administration (FDA) approved, can stand repeated use, are primarily and customarily used to serve a medical purpose, are not useful to a person in the absence of illness or injury, and can be used in the beneficiary's home. Examples are: hospital beds, wheelchairs, and ventilators. DME is a benefit for beneficiaries when:

- It is medically and functionally necessary to meet the needs of the beneficiary.
- It may prevent frequent hospitalization or institutionalization.
- It is life sustaining.

* * *

1.3 PLACE OF SERVICE

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.

* * *

1.5 MEDICAL NECESSITY [CHANGES MADE 7/1/12]

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;
    - 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. **(revised 7/1/12)**
- 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.

* * *

2.7 CHILDREN'S PRODUCTS

Definition Children's products that may be considered for coverage include, but are not limited to, equipment that is used in the home or vehicle by children under age 21 for the purposes of positioning, safety during activities of daily living, or assisted mobility.

Examples of these items include: bath supports, specialized car seats, corner chairs, dynamic standers, feeder seats, gait trainers, pediatric walkers, positioning commodes, side lyers, standers, and toileting supports.

Standards of Coverage

Children's products are covered if one or more of the following applies:
- Beneficiary is unable to independently maintain a seated position.
- Beneficiary cannot stand and/or ambulate without the aid of an assistive device.
- Beneficiary has physical anomalies that require support to allow a functional position or prevent further disability.

Documentation

Documentation must be less than 180 days old and include **all** of the following:
- Diagnosis appropriate for the equipment requested.
- Any adaptive or assistive devices currently used in the home.
- Reason economic alternatives cannot be used, if applicable.

- Statement of functional need from an appropriate pediatric subspecialist, occupational or physical therapist.

PA Requirements

PA is required for all requests.

* * *

2.47 WHEELCHAIRS, PEDIATRIC MOBILITY AND POSITIONING MEDICAL DEVICES, AND SEATING SYSTEMS

2.47.A. DEFINITIONS

Wheelchair
A wheelchair has special construction consisting of a frame and wheels with many different options and includes, but is not limited to, standard, light-weight, highstrength, powered, etc.

Pediatric Mobility Product
Pediatric mobility products are pediatric-sized mobility and positioning medical devices (as defined by PDAC) that have a special light-weight construction consisting of a frame and wheels/base with many different options. Pediatric mobility devices include pediatric wheelchairs, transport chairs, hi/low chairs with outdoor/indoor bases, and standing systems designed specifically for children with special needs. These products must meet the definition of Durable Medical Equipment (DME) (refer to the Program Overview section of this chapter) and are not available as a commercial product or for which a commercial product can be used as an economic alternative.

* * *

2.47.B STANDARDS OF COVERAGE

* * *

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.

* * *

For pediatric hi/low chairs:

- Positioning cannot be accommodated by use of other mobility devices or commercial products.
- Is required for independent transfers.
- All mobility products with interchangeable bases and seating systems have been ruled out as economic alternatives.
- Must accommodate growth and adjustments for seating systems a minimum of 3" in depth and 2" in width.

MDCH Medicaid Provider Manual,
Medical Supplier Section
July 1, 2012, pages 1, 3-5, 26 and 81-83

Additionally, the Medicaid Provider Manual policy indicates some items are non covered. The list of items that are non covered induces, but is not limited to: devices used for play, pre-mobility development, or exercise are not considered pediatric mobility devices for the purpose of reimbursement and are not covered; equipment for social or recreational purposes; exercise equipment; school items; second units for school use; second wheelchair for beneficiary preference or convenience; therapy modalities; and wheelchair accessories. MDCH Medicaid Provider Manual, Medical Supplier Section, July 1, 2012, pages 17-19.

In the present case, the Department determined that the Appellant's prior authorization request should be denied because: the information provided indicated the Appellant's mobility device is not used within his place of residence and the requested Rifton activity chair is for the purpose of school and learning activities, social interaction, as

well as psychological and physiological well-being; the information provided did not support medical necessity for the Rifton activity chair and accessories; and durable medical equipment for purpose of school, therapy, developmental, sensory, exercise, and/or recreational activities and for preference and/or convenience has been determined by the Department to not be medically necessary and is non-covered. This notice indicated the Appellant could submit a new request for the most economical alternative choice of chair, without a Hi-Lo option base, for purpose of the Appellant's use within his place of residence that meets his positioning for oral feeding need and meets the policy requirements. (Exhibit 1, page 7)

The Medicaid Utilization Analyst explained that medical devices are covered if they are the least costly alternative. The Department considered the Appellant's other positioning and mobility equipment, including a tilt in space pediatric wheelchair with custom seating, Versa Form Plus, TLSO, bilateral AFO, safety vest and current home positioning chair. It was noted that the addendum from the therapist, in part, explained that the Appellant has outgrown the older Rifton mobile chair. The addendum also stated that the wheelchair is used for transport to and from school and in the family van around the community noting space issues in the home. However, the Medicaid Utilization Analyst explained that Medicaid covers durable medical equipment for use within the beneficiary's place of residence. Therefore, equipment like the wheelchair would not have been approved just for use in the school setting. The Medicaid Utilization Analyst also stated that Versa Form Plus pillows are an option in more situations than indicated in the addendum as they are an option in sitting as well as side laying positions. The addendum asserted that the wheelchair is larger than the requested Rifton activity chair and seats him higher off the ground. However, the Medicaid Utilization Analyst compared the overall size and adjustability of both the requested Rifton activity chair and the Appellant's current wheelchair and determined they are comparable. (Exhibit 1, pages 11-13 23-24, and 27-28; Medicaid Utilization Analyst Testimony) The Medicaid Utilization Analyst went over many of the circumstances addressed as non-covered in the above cited policy related to the information submitted with this prior authorization request. Durable medical equipment for the purpose of school, therapy, developmental, sensory, exercise, play, social and/or recreational activities, and for preference and/or convenience is non-covered. The Medicaid Utilization Analyst testified that if the Appellant did not have other equipment, he would qualify for the requested Rifton activity chair. Because the Appellant's medically necessary positioning and mobility needs are met with the other equipment he currently has, another piece of equipment can not be approved. (Medicaid Utilization Analyst Testimony)

The Appellant's mother disagrees with the denial and testified that the Appellant has had the current Rifton mobile chair since age 3 and he has outgrown it. The Appellant's mother went over how the other equipment the Appellant currently has is utilized. The Appellant has a gait trainer for standing and weight bearing. The Versa pillows do not work with the current Rifton chair and are used to support the Appellant in laying positions. The Appellant does not wear the TLSO around the clock, for example it is

used for community outings but not when sitting at home. The Appellant's wheelchair is hard to adjust and due to the oxygen tank holder, it does not tip as far as it will go. The home is only 960 square feet and has undergone some recent modifications for another child. The wheelchair does not work in this space. The floor sitter only has one position and is used for G-tube feeding. The floor sitter does not have a tray. The Appellant's mother explained that after school, the Appellant has a rest period of about an hour after laying with the pillows, then he is up in the Rifton chair for everything in the home. The chest strap allows the Appellant some relief from having to wear the brace all the time. Sitting upright in this chair also benefits bowel and bladder function. The Appellant has the current Rifton chair for over seven years. The Appellant's mother disagrees with the denial of what is a vital piece of equipment for him. (Mother Testimony)

Based on the documentation submitted, the Appellant did not meet the Medicaid standards of coverage and documentation requirements to establish medical necessity for the requested Rifton activity chair and accessories. The Medicaid Provider Manual policy only allows for coverage of a medical device if it is the least costly alternative that meets medically necessary needs. Many of the needs listed in the submitted documentation would fall under the non-covered circumstances in the Medicaid Provider Manual policy. While this ALJ understands the Appellant had this type of chair for many years, the Department properly considered the Appellant's other current positioning and mobility equipment. The submitted documentation did not establish unmet needs for positioning and mobility that would be considered medically necessary given the other equipment the Appellant currently has. 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 properly denied the Appellant's request for a Rifton activity chair and accessories based on the submitted documentation.

IT IS THEREFORE ORDERED that:

The Department's decision is AFFIRMED.

Colleen Lack
Administrative Law Judge
for James K. Haveman, Director
Michigan Department of Community Health

[redacted]
Docket No. 2013-10515 PA
Decision and Order

cc: [redacted]

Date Mailed: 4/24/2013

***** 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 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.