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. 2013-19926 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], Appellant's [redacted] 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 Q2-Life wheelchair 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, born [redacted], who has been diagnosed with quad infantile cerebral palsy. (Exhibit A, pp 4-5).

2. On or about [redacted], the Department received a Prior Authorization request for a Q2-Life wheelchair and accessories for the Appellant. (Exhibit A, p 10).

3. On [redacted], the Department requested additional information. (Exhibit A, p 9).

4. On or about [redacted], the Department received the resubmitted Prior Authorization request, with response to the request for additional information. (Exhibit A, pp 6-26).

5. On [redacted], the Department's consulting physician determined that the Prior Authorization request should be denied because there were more economical alternatives available. (Exhibit A, p 5).

6. On [redacted], the Department issued a Notification of Denial to the Appellant and the medical supplier stating the Prior Authorization request was denied because there were more economical alternatives available. (Exhibit A, pp 27-28).

7. On [redacted], the Michigan Administrative Hearing System received Appellant's hearing request. (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.

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.

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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.

Licensed Medical Professional

A licensed medical professional is defined as an occupational or physical therapist or a rehabilitation RN who has at least two years' experience in rehabilitation seating and is not an employee of the medical supplier.

Medicaid policy requires that assessments must be performed by a licensed medical professional. A physical therapy assistant (PTA) or a licensed occupational therapy assistant (OTA) may not perform any part of the assessment or evaluation and may not complete or sign the MSA-1656.

Pediatric Subspecialist

A pediatric subspecialist is a physician who is board-certified in a pediatric subspecialty (such as a physiatrist, neurologist, or orthopedist). A pediatrician is not considered a pediatric subspecialist relative to this policy.

Institutional Residential Setting

An institutional residential setting refers to a nursing facility, hospital long-term care unit, or county medical care facility.

Community Residential Setting

A community residential setting is defined as a non-institutional setting in the community, i.e., beneficiary's own home, Adult Foster Care (AFC), Assisted Living or Group Home.

2.47.B STANDARDS OF COVERAGE

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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.

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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
[redacted], 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, custom seating for secondary and/or transport chairs, equipment for social or recreational purposes, and a second wheelchair for beneficiary preference or convenience. *MDCH Medicaid Provider Manual, Medical Supplier Section, [redacted], pages 17-18*.

In the present case, the Department determined that the Prior Authorization request should be denied because the documentation submitted indicated that Appellant's primary wheelchair was a power wheelchair and that there were more economical alternatives available for the secondary, manual wheelchair requested. The Medicaid Utilization Analyst testified that when the Department requested further information from the Appellant and the medical supplier, Appellant's occupational therapist submitted documentation indicating that the manual wheelchair was Appellant's secondary wheelchair. (See Exhibit A, p 6) The Medicaid Utilization Analyst testified that the Department will reimburse suppliers $[redacted] for a standard manual wheelchair, but $[redacted] for the wheelchair requested by Appellant. As such, there were more economical alternatives available for the wheelchair Appellant requested.

Appellant's [redacted] testified that the occupational therapist made a mistake in his letter and that actually Appellant's manual wheelchair is his primary wheelchair, while the power wheelchair is the secondary chair. Appellant's [redacted] indicated that the power wheelchair is not used in the home and is only used when Appellant is out in the community. Appellant's [redacted] indicated that when he is in the home, Appellant uses his manual wheelchair. Appellant's [redacted] read into the record a letter from the occupational therapist in which the therapist admitted that he had made a mistake in his previous report.

The Medicaid Utilization Analyst explained that she had to base her decision on the information that she had at the time and, based on that information, the Department's denial was proper. The Medicaid Utilization Analyst also explained that if Appellant resubmits another Prior Authorization request for a new manual wheelchair, that request will also have to include a request to repair the existing wheelchair and/or explain why that wheelchair cannot be modified or repaired to meet Appellant's current needs.

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 wheelchair and accessories. The submitted documentation indicated that Appellant's primary wheelchair was his power wheelchair and, as such, any secondary wheelchair must be the most economical available. The wheelchair sought was not the most economical available and was properly denied. Appellant can resubmit another Prior Authorization request with the proper documentation to see if Appellant's primary manual wheelchair can be replaced with the one he is seeking. 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 Q2-Life wheelchair and accessories based on the submitted documentation.

IT IS THEREFORE ORDERED that:

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

/s/

Robert J. Meade
Administrative Law Judge
for James K. Haveman, Director
Michigan Department of Community Health

[redacted]
Docket No. 2013-19926 PA
Decision and Order

cc: [redacted]

Date Mailed: February 27, 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.