

**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:**

Docket No. 2013-30658 CL

██████████

██████████

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 ██████████ ██████████ mother, appeared on the Appellant's behalf. ██████████ Appeals Review Officer, represented the Department. ██████████, Michigan Department of Community Health (MDCH) Contract Manager for Diaper and Incontinence Program, appeared as a witness for the Department.

**ISSUE**

Has the Department properly denied the Appellant coverage for pull-on briefs?

**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. (Exhibit 1, page 10)
2. On ██████████, the Department's contractor for the Diaper and Incontinent Supplies Program, conducted an initial nursing assessment by telephone with the Appellant's mother as a result of a request for pull-on briefs for the Appellant. It was reported that the Appellant has seizures and is developmentally delayed. The Appellant attends school and is not on a toileting schedule. The Appellant receives some prompting at home but can manipulate pull-ons herself. The Appellant's mother also reported the Appellant sees an urologist but could not relate the reason for the incontinence. The bowel incontinence was reported as secondary to constipation that is treated with ██████████. (Exhibit 1, page 7)



3. On [REDACTED], the nurse at the Appellant's school wrote a letter stating the Appellant sees an urologist for overactive bladder and the anti-seizure medication can cause polyuria. The Appellant is allowed to use the restroom on demand due to her medical history and conditions. The Appellant still occasionally cannot make it to the restroom on time and has accidents both at home and at school. (Exhibit 1, page 11)
4. A clinic note from the Appellant's urologist dated [REDACTED] was submitted stating the Appellant was self referred by her mother for urinary incontinence. A past urologic history of recurrent urinary tract infections was noted. The Appellant has been taking [REDACTED], which the Appellant's mother believes has been helping the incontinence. Urinalysis showed no blood or signs of infection. The assessment and plan indicated urge incontinence and to continue with the medication. (Exhibit 1, page 10)
5. On [REDACTED], the Department sent an Adequate Action Notice denying coverage for pull-on briefs because the information provided did not support coverage of the service. (Exhibit 1, page 5)
6. On [REDACTED], the Request for Hearing filed on the Appellant's behalf was received. (Exhibit 1, page 3)

### **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:

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- 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 (Not Applicable to CSHCS Only Beneficiaries)**

**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 ages 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.

**Disposable underpads** are covered for beneficiaries of all ages with a medical condition resulting in incontinence.

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

**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, 2013, Pages 42-43.*

The Department asserts that under the above cited policy, the Appellant did not meet the criteria for pull-on briefs. The Contract Manager testified that this request was reviewed by one of the Department's consulting physicians. (Contract Manager



Testimony) The consulting physician review note states “per teacher letter and nursing assessment with mom, there is not a toilet training program in place. This is a requirement per Medicaid policy. Should a toilet training program be implemented and success begins to be made, re-submit for consideration.” (Exhibit 1, page 6) This is not entirely accurate in that it implies a toilet training program is always required. The policy allows for the coverage of pull-on briefs for beneficiaries ages 3-20 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.

*MDCH Medicaid Provider Manual,  
Medical Supplier Section,  
January 1, 2013, Page 42  
(Underline added by ALJ)*

The Contract Manger testified that the second bullet point applied to the Appellant's case. When asked why the first bullet point would not considered as there is some evidence that the Appellant can independently care for her toileting needs, the Contract Manger indicated that the first bullet point is only for one diagnosis, Spina Bifida. (Contract Manager Testimony) The Medicaid Provider Manual policy does not specify that this portion of the pull-on brief policy is only for beneficiaries with that diagnosis.

This ALJ understands the Appellant's mother's concerns that at age 13 the Appellant does not want to have someone changing a diaper for her when she can do pull-on briefs by herself. (Mother's Testimony) However, the submitted information in this case was not sufficient to establish that the Appellant meets the criteria for pull-on briefs.

The applicable Medicaid policy in this area is clear, pull-on briefs can only be covered for beneficiaries ages 3-20 when there is the presence of a medical condition causing bowel/bladder incontinence and either 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. The policy sets out documentation requirements, which include primary and secondary diagnosis of condition causing incontinence. The clinic note from the Appellant's urologist did not provide primary and secondary diagnoses for the Appellant's incontinence. Further, the clinic note did not address whether the Appellant would benefit from a toilet training program. (Exhibit 1, page 10) It is also noted that the urologist's clinic note does not document the Appellant's seizure

[REDACTED]

medication causing polyuria, which was indicated as a possibility in the school nurse's letter. (Exhibit 1, pages 10-11) Additionally, the information reported for the initial nursing assessment was not as clear about the Appellant's ability to be independent with toileting needs since both prompting and occasional help with hygiene were noted. (Exhibit 1, page 7) The Department's denial must be upheld based on the available information.

At any time, the Appellant can have a new request for pull-on briefs submitted with additional documentation to establish that the Appellant has met the criteria set out in the Medicaid Provider Manual policy.

**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 pull-on briefs was in accordance with Department policy criteria.

**IT IS THEREFORE ORDERED** that:

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

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

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.

CL/db

cc: [REDACTED]