

**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:

██████████,

Appellant

Docket No. 2013-15058 PA
Case No. ██████████

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, father, represented the Appellant. ██████████, Supports Coordinator, appeared as a witness for the Appellant. ██████████, Medicaid Utilization Analyst, represented the Department.

ISSUE

Did the Department properly deny the Appellant's prior authorization request for a shower chair with 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 ██████ year old Medicaid beneficiary with multiple diagnoses, including spastic quadraplegic cerebral palsy, close head injury, shaken infant syndrome, recurrent dislocation of pelvic/thigh, seizures and neuromuscular scoliosis. (Exhibit 1, pages 7 and 11-22)
2. On or about ██████████, the Department received a prior authorization request for a shower chair with accessories for the Appellant. (Exhibit 1, page 8)
3. On ██████████, the Department requested additional information. (Exhibit 1, page 8)
4. On or about ██████████, Department received the resubmitted prior authorization request, with response to the request for additional

information. (Exhibit 1, pages 7-23)

5. On ██████████, the Department's consulting physician determined the prior authorization request should be denied because economic alternatives are available. (Exhibit 1, page 27)
6. On ██████████, the Department issued Notification of Denial to the Appellant stating the prior authorization request was denied because economic alternatives are available. (Exhibit 1, pages 5-6)
7. On ██████████, the Michigan Administrative Hearing System received the hearing request filed on the Appellant's behalf. (Exhibit 1, page 2)

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.

* * *

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.

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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.

2.8 COMMODES

Definition

A commode is a chair with an enclosed pan or pail that may be stationary or mobile, with fixed or removable arms, a seat lift, and footrest.

Standards of Coverage

A **standard commode** may be covered if the beneficiary is unable to safely use home toileting facilities, is confined to a single room, or is confined to one level of the home in which no toileting facilities are available.

A **heavy-duty commode** may be covered for a beneficiary weighing 300 pounds or greater and the beneficiary is unable to safely use home toileting facilities, is confined to a single room, or is confined to one level of the home in which no toileting facilities are available.

A **shower commode chair** may be covered if required to enable the beneficiary to shower independently or with assistance in the home setting and there are no economic alternatives available.

Documentation

Documentation must be less than 180 days old and include:

- Diagnosis appropriate for the equipment requested
- Functional limitations requiring the equipment.
- Weight (if a heavy-duty commode is required).
- Discharge date from hospital, if applicable.

PA Requirements

PA is not required for any of the following if the Standards of Coverage are met:

- Up to Three Months Following Hospital Discharge - rental of a stationary commode chair with fixed arms (or) stationary commode chair with detachable arms for a diagnosis not already removed from PA.
- Purchase or rental of a stationary, mobile, extra wide, or heavy duty commode chair with fixed or detachable arms for the following diagnoses:
 - Amyotrophic Lateral Sclerosis
 - Multiple Sclerosis
 - Cerebral Palsy, Unspecified
 - Congenital and Progressive Hereditary Muscular Dystrophy
 - Fracture of Vertebral Column With Spinal Cord Injury (cervical and dorsal)
 - Replacement of pail or pan for use with commode chair.

PA is required for the following:

- Medical need beyond the Standards of Coverage.
- Commodes with footrests and/or seat mechanisms.
- Continued coverage after the three-month rental following hospital discharge for a diagnosis not removed from PA.
- Replacement is required within five years if the beneficiary is over 21.
- Replacement is required within two years if the beneficiary is under 21.

MDCH Medicaid Provider Manual,
Medical Supplier Section
July 1, 2012, pages 1, 4-5, and 26-27

In the present case, the Department determined the prior authorization request should be denied because economic alternatives are available. (Exhibit 1, pages 5-6 and 27) The above cited Medicaid Provider Manual policy repeatedly notes that Medicaid covers

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the most cost effective treatment and submitted information should document economic alternatives that have been ruled out. The Medicaid Utilization Analyst acknowledged that the Appellant would qualify for bathing equipment, but it must be the most cost effective product. (Medicaid Utilization Analyst Testimony) The Department does not consider some of the features of the requested shower chair as medically necessary, such as height adjustable frame, soft seat overlay if there are no existing pressure areas, and adjustable features to allow for growth for future use. (Exhibit 1, page 15; Medicaid Utilization Analyst Testimony) The Department provided samples of cost effective alternatives, most of which have the tilt in space feature, that have not been ruled out based on the medically necessary features. (Exhibit 1, pages 8-33)

The Appellant's mother disagrees with the denial and asserted that it would be cost effective to purchase a chair that is adjustable as the Appellant grows. Further, the requested chair was selected because it best met the Appellant's needs based on the evaluation. Many catalogues were looked through during the evaluation. It is due to the vigilance of the Appellant's parents that currently there are no pressure sores. The Appellant is unique and has had major surgeries. The Appellant also has a seizure condition. The focus in selecting a shower chair was on safety, and it is important to make sure the Appellant can not just slide out of the shower chair. (Mother and Support Coordinator Testimony)

Based on the documentation submitted, the Appellant did not meet the Medicaid standards of coverage and documentation requirements to establish the requested shower chair with accessories is the most economic alternative. Some of the features of the requested chair cannot be considered medically necessary. Further, the Department can only consider the Appellant's current functional limitations and needs, and cannot consider future issues related to growth or possible changes in his condition. Accordingly, the Department's denial must be upheld.

As discussed during the telephone hearing proceedings, the Appellant may wish to have a new prior authorization request submitted for a shower chair with additional supporting documentation.

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 rehab shower chair with accessories based on the submitted documentation.

IT IS THEREFORE ORDERED that:

The Department's decision is AFFIRMED.

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

cc:



Date Mailed: 2/19/2013

***** 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.