

**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. 2013-35693 QHP  
Case No. [REDACTED]**

[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 was represented by [REDACTED]. She had no witnesses. The [REDACTED] (MHP) was represented by [REDACTED], appeals coordinator, her witness was [REDACTED].

**ISSUE**

Did the Medicaid Health Plan properly deny Appellant's request for a motorized power wheelchair or scooter?

**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-SSI beneficiary. (Appellant's Exhibit #1)
2. The Appellant has been enrolled in the Respondent MHP, [REDACTED] plan since [REDACTED]. (Respondent's Exhibit A, p. 2)
3. On [REDACTED], the MHP received a request for a powered wheelchair-scooter for the Appellant. His plan of care indicates a weight of [REDACTED] pounds with desired goals of ADL independence. (Respondent's Exhibit A, p. 2)

4. The Appellant's diagnosis is morbid obesity, foot/lower extremity cellulitis, CHF, DM, neuropathy in all limbs. He is on four (4) liters of oxygen daily. (Respondent's Exhibit A, p. 2)
5. The Appellant states he can ambulate about 30 feet. (Respondent's Exhibit A, pp. 2 and 3)
6. The Appellant's provider requests a Pride Jazzy 1450 power wheel chair with heavy duty options capable of carrying a 600 pound load. (Respondent's Exhibit A, pp. 2-5, 7-10 and Appellant's Exhibit #1)
7. On ██████████, the MHP sent the Appellant a denial notice, stating that the request for a power wheelchair was denied based on their certificate of coverage and medical necessity. Since the Appellant was able to ambulate 30 feet the reviewing physicians at MHP determined that he lacked medical necessity for a power wheelchair – as of ██████████. (Respondent's Exhibit A, p. 28)
8. The Appellant requested an administrative hearing contesting the denial on ██████████. (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.

On May 30, 1997, the Department received approval from the Health Care Financing Administration, U.S. Department of Health and Human Services, allowing Michigan to restrict Medicaid beneficiaries' choice to obtain medical services only from specified MHPs.

The Respondent is one of those MHPs.

The covered services that the Contractor has available for enrollees must include, at a minimum, the covered services listed below (List omitted by Administrative Law Judge). The Contractor may limit services to those which are medically necessary and appropriate, and which conform to professionally accepted standards of care. The Contractor must operate consistent with all applicable Medicaid provider manuals and publications for coverages and limitations. If new services are added to the Michigan Medicaid Program, or if services are expanded, eliminated, or otherwise changed, the Contractor must implement the changes

consistent with State direction in accordance with the provisions of Contract Section 2.024.

Contract §1.022(E)(1), Covered Services, Medicaid Health Plans, 10/1/09.

(1) The major components of the Contractor's utilization management (UM) program must encompass, at a minimum, the following:

- Written policies with review decision criteria and procedures that conform to managed health care industry standards and processes.
- A formal utilization review committee directed by the Contractor's medical director to oversee the utilization review process.
- Sufficient resources to regularly review the effectiveness of the utilization review process and to make changes to the process as needed.
- An annual review and reporting of utilization review activities and outcomes/interventions from the review.
- The Um activities of the Contractor must be integrated with the Contractor's QAPI program.

(2) Prior Approval Policy and Procedure

The Contractor must establish and use a written prior approval policy and procedure for UM purposes. The Contractor may not use such policies and procedures to avoid providing medically necessary services within the coverages established under the Contract. The policy must ensure that the review criteria for authorization decisions are applied consistently and require that the reviewer consult with the requesting provider when appropriate. The policy must also require that UM decisions be made by a health care professional who has appropriate clinical expertise regarding the service under review.

Contract at § 1.022(AA), *Supra*

As stated in the Department-MHP contract language above, a MHP, “must operate consistent with all applicable Medicaid Provider Manuals and publications for coverages and limitations.” The pertinent section of the Michigan Medicaid Provider Manual (MPM) states:

**[ ] 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....

....

**Power Wheelchair or Power-Operated Vehicle (POV) in Both Community Residential and Institutional Residential Settings**

May be covered if the beneficiary meets **all** of the following:

- Lacks ability to propel a manual wheelchair, or has a medical condition that would be compromised by propelling a manual wheelchair, for at least 60 feet over hard, smooth, or carpeted surfaces with or without rest intervals.
- Requires use of a wheelchair for at least four hours throughout the day.
- Is able to safely operate, control and maneuver the wheelchair in their environmental setting, including through doorways and over thresholds up to 1½", as

appropriate.

- Has a cognitive, functional level that permits safe operation of a power mobility device with or without training.
- Has visual acuity that permits safe operation of a power mobility device.
- For a three-wheeled power mobility device, has sufficient trunk control and balance.

MPM, §2.47.B., Medical Supplier, April 1, 2013, pp. 82-84

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The DCH-MHP contract provisions allow prior approval procedures for utilization management purposes. The MHP reviews prior approval requests under their guidelines which are approved by the Michigan Department of Community Health.

The Respondent witness testified that power wheelchairs are only for nonambulatory patients – and that the record indicated the Appellant could walk 30 – 50 feet on his own power. See Respondent’s Exhibit A – throughout.

The Appellant’s witness said that the Appellant is now unsteady on his feet – he fell and broke his ankle and is essentially housebound. She added he takes 19 different medications and needs the power wheelchair to get around the house.

The Appellant testified that he has done everything the insurer has asked of him – and stated that a power wheelchair or “even a scooter” would help him get around the house.

On review the medical evidence submitted on this application clearly shows that the Appellant is capable of walking – under his own power – between 30 and 50 feet. Thus medical necessity requirement – being non ambulatory – is not satisfied and the MHP correctly denied the Appellant’s request for a power wheel chair.

While the MHP is always permitted to do more for its customers under Medicaid - it is forbidden by MDCH policy and Contract to do less. However, the decision to deny the Appellant’s request for a power wheelchair was reached with guidelines and Medicaid policy. .

The Appellant failed to preponderate his burden of proof that the MHP erred in denying his request on PA for a power operated wheelchair.

[The Appellant may wish to have a new prior authorization request for a power mobility device submitted to MHP with additional supporting documentation clarifying his new impairments and his desire for a power scooter].

**DECISION AND ORDER**

The ALJ decides that the MHP properly denied the Appellant's request for a power wheelchair.

**IT IS THEREFORE ORDERED** that:

The Medicaid Health Plan's decision is **AFFIRMED**

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

  
cc: 

Date Signed: 6/24/2013

Date Mailed: 6/24/2013

**\*\*\* 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.