

**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. 2013-40986 QHP  
Case No. ██████████

**DECISION AND ORDER**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37, and upon a request for a hearing filed on behalf of the minor Appellant.

After due notice, a hearing was held on ██████████. ██████████, the minor Appellant's mother, appeared and testified on Appellant's behalf. Attorney ██████████ appeared on behalf of ██████████ of Michigan (██████████ or "██████████ Health Plan"). ██████████, Director of Member Services, and Dr. ██████████, D.O., appeared as witnesses for ██████████.

**ISSUE**

Did ██████████ properly deny Appellant's request for a weighted blanket?

**FINDINGS OF FACT**

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. Appellant was born on ██████████ and was ██████ years-old at the time of the hearing. (Respondent's Exhibit A, page 8).
2. On or about ██████████, ██████████ received a request made on behalf of Appellant for a weighted blanket to treat his sensory processing disorder. (Respondent's Exhibit A, pages 7-15).
3. In a notice dated ██████████, ██████████ sent Appellant written notice that the request for a weighted blanket was denied. (Respondent's Exhibit A, pages 16-21).
4. Regarding the reason for the denial, the notice provided:

A ██████████ Health Plan (MHP) physician reviewer has reviewed this request and

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determined it does not meet the criteria for coverage for weighted blanket. Per the MHP medical policy for durable medical equipment, items are considered for coverage if they are medically and functionally necessary to meet your needs. Also, if they are used to prevent frequent hospitalizations, institutionalization, or ER visits. Additionally, items need to be approved for marketing by the Food and Drug Administration (FDA) and are otherwise safe and effective for the purpose intended. The request for a weighted blanket is considered a convenience item and/or experimental in that there is very little information available to support the effectiveness of this item for sensory integration therapy in managing autistic children. Please follow up with your physician to discuss care options. [Respondent's Exhibit A, page 21.]

5. Appellant filed a local appeal of that denial with ██████████, but the decision to deny Appellant's request was upheld for the same reasons provided in the original notice. (Respondent's Exhibit A, pages 22-24).
6. On ██████████, the Michigan Administrative Hearing System (MAHS) received a request for hearing with respect to the denial filed on behalf of Appellant. (Respondent's Exhibit A, 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.

In 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 Medicaid Health Plans. The Respondent is in one of those Medicaid Health Plans and, regarding such plans, the Michigan Medicaid Provider Manual (MPM) states:

#### **SECTION 1 – GENERAL INFORMATION**

The Michigan Department of Community Health (MDCH) contracts with Medicaid Health Plans (MHPs), selected

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through a competitive bid process, to provide services to Medicaid beneficiaries. The selection process is described in a Request for Proposal (RFP) released by the Office of Purchasing, Michigan Department of Technology, Management & Budget. The MHP contract, referred to in this chapter as the Contract, specifies the beneficiaries to be served, scope of the benefits, and contract provisions with which the MHP must comply. Nothing in this chapter should be construed as requiring MHPs to cover services that are not included in the Contract. A copy of the MHP contract is available on the MDCH website. (Refer to the Directory Appendix for website information.)

MHPs must operate consistently with all applicable published Medicaid coverage and limitation policies. (Refer to the General Information for Providers and the Beneficiary Eligibility chapters of this manual for additional information.) Although MHPs must provide the full range of covered services listed below, MHPs may also choose to provide services over and above those specified. **MHPs are allowed to develop prior authorization requirements and utilization management and review criteria that differ from Medicaid requirements.** The following subsections describe covered services, excluded services, and prohibited services as set forth in the Contract.

[MPM, January 1, 2013 version, Michigan Health Plan (MHPs) Chapter, page 1 (emphasis added).]

With respect to the prior authorization requirements in this case, [REDACTED]'s Policy and Procedure Manual states:

## **II. Description**

### **Durable Medical Equipment (DME)**

DME are those items that are Food and Drug Administration (FDA) approved, **(added relative to bulletin MSA 10-16)** 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:

1. It is medically and functionally necessary to meet the needs of the beneficiary.
2. It may prevent frequent hospitalization,

3. institutionalization, or ER visits.  
It is life-sustaining.

[Respondent's Exhibit A, page 25.]

Pursuant to the above policy, ██████████ denied Appellant's request on the basis that, given the little information available to support the effectiveness of the weighted blanket for sensory integration therapy in managing autistic children, the requested weighted blanket is not medically and functionally necessary to meet Appellant's needs. The Health Plan also noted that the weighted blanket has not been approved for marketing by the FDA and shown to be otherwise safe and effective for the purpose intended. Dr. ██████████ also testified and elaborated on those reasons during the hearing.

Appellant bears the burden of proving by a preponderance of the evidence that ██████████ erred in denying his request. Here, Appellant has failed to meet that burden of proof. Appellant's representative credibly testified that a weighted blanket has benefitted Appellant in school, but can provide no evidence that the item has been approved for marketing by the FDA or that it is medically and functionally necessary to meet Appellant's needs. Similarly, the request itself does not identify the medical necessity or basis for the requested item.

As noted by Respondent's witnesses, Appellant is free to supplement the submitted documentation and re-request the weighted blanket at any time.

### **DECISION AND ORDER**

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that ██████████ properly denied Appellant's request for a weighted blanket.

**IT IS THEREFORE ORDERED** that:

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

*Steven Kibit*

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Steven Kibit  
Administrative Law Judge  
for James K. Haveman, Director  
Michigan Department of Community Health

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cc:

Date Signed: 7/3/2013

Date Mailed: 7/3/2013

**\*\*\* 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 60 days of the mailing date of the Decision and Order or, if a timely request for rehearing was made, within 60 days of the mailing date of the rehearing decision.