

**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. 2013-49976 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.*, and upon a request for a hearing filed on behalf of the minor Appellant.

After due notice, a hearing was held on ██████████. ██████████, Appellant's mother, appeared and testified on Appellant's behalf. ██████████, Appeals Review Officer, represented the Department of Community Health. ██████████, Medicaid Utilization Analyst, appeared as a witness for the Department.

**ISSUE**

Did the Department properly deny Appellant's prior authorization request for a manual 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. Appellant is a Medicaid beneficiary born on ██████████. (Respondent's Exhibit A, page 18).
2. Due to her medical conditions, Appellant requires the use of a wheelchair. (Testimony of Appellant's representative; Testimony of ██████████).
3. On ██████████, the Department approved a request for a power wheelchair and accessories, including a seating system, for Appellant. (Respondent's Exhibit A, pages 8-9).
4. On or about ██████████, the Department received a prior authorization request filed on behalf of Appellant and requesting a Panthera manual wheelchair and accessories. (Respondent's Exhibit A, page 19).

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5. In response to that request, the Department requested additional information. (Respondent's Exhibit A, pages 19-20). In that letter, the Department stated in part:

Beneficiary has a previously approved power wheelchair to meet her independent mobility needs. Two primary wheelchairs cannot be approved. Rule out economical alternatives including transport wheelchairs. [Respondent's Exhibit A, pages 19.]

6. On or about [REDACTED], the Department received a new and updated request for the Panthera manual wheelchair and accessories. (Respondent's Exhibit A, pages 18-34).

7. As part of that request, the form indicated that the manual wheelchair would:

Improve cardiac and respiratory status. Having a back-up wheelchair to her power chair for school and doctors appointments in case her power chair is broken or unable to be taken to an appointment. This will keep Ericka and her caregivers safe. [Respondent's Exhibit A, page 18.]

8. Along with the request, Appellant submitted a prescription for a manual wheelchair. The prescription stated it was necessary for independent mobility. (Respondent's Exhibit A, page 25).

9. The request also included a Letter of Medical Justification from Appellant's doctor. In the part of the letter responding to the Department's request for additional information, the letter stated:

Economic alternatives have been ruled out above. The Thomashilfen Swifty, Convaid EZ Rider, and the Convaid Cruiser are all transport only chairs. They will not allow Ericka to propel herself within the classroom and/or in doctors' offices in the event that her primary chair is broken. These chairs would allow for transportation only. [Respondent's Exhibit A, page 22.]

10. The Department reviewed Appellant's prior authorization request and determined that it should be denied. (Respondent's Exhibit A, page 35; Testimony of [REDACTED]).

11. On ██████████, the Department sent Appellant a Notification of Denial. (Respondent's Exhibit A, pages 5-6). Specifically, that denial stated:

The policy this denial is based on is Section 1, 1.5, 1.10, and 2.47 of the Medical Supplier chapter of the Medicaid Provider Manual, which indicates:

Beneficiary has a previously approved wheelchair meeting her mobility needs. Two wheelchairs for independent mobility are not covered. Please refer to the Medical Supplier Chapter . . . [Respondent's Exhibit A, page 5.]

12. On ██████████, the Michigan Administrative Hearing System (MAHS) received a request for hearing filed on behalf of Appellant. That request stated that Appellant has no back-up when her power wheelchair cannot be used and that Appellant cannot access her grandparents' homes or classrooms at school with her power wheelchair. (Respondent's Exhibit A, page 4).

### **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.

Medicaid covered benefits are addressed for the practitioners and beneficiaries in the Medicaid Provider Manual (MPM). Here, the MPM general provides 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.

\* \* \*

### **1.3 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**

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.
- 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.

\* \* \*

#### **1.10 NONCOVERED ITEMS [CHANGE MADE 4/1/13]**

Items that are not covered by Medicaid include, but are not limited to:

- Adaptive equipment (e.g., rocker knife, swivel spoon, etc.)
- Air conditioner
- Air purifier

- Custom seating for secondary and/or transport chairs
- Devices used for play, pre-mobility development, or exercise are not considered pediatric mobility devices for the purpose of reimbursement and are not covered (e.g., jet mobile, ready racer, creepster crawler)
- Enteral formula to accommodate psychological or behavioral conditions, food preferences, allergies, loss of appetite, or noncompliance with a specialized diet
- Environmental Control Units
- Equipment not used or not used properly by the beneficiary
- Equipment for social or recreational purposes
- Exam tables/massage tables
- Exercise equipment (e.g., tricycles, exercise bikes, weights, mat/mat tables, etc.)

\* \* \*

- School Items (e.g., computers, writing aids, book holder, mouse emulator, etc.)
- Second units for school use
- Second wheelchair for beneficiary preference or convenience

*MPM, April 1, 2013 version*  
*Medical Supplier Chapter, pages 1, 3-5, 17-19*

Additionally, regarding the type of equipment requested in this case, the MPM specifically provides:

**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, high-strength, 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/Certified Medical Professional**

A licensed/certified 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/certified medical professional. A physical therapy assistant (PTA) or a certified occupational therapy assistant (COTA) 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**

### **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 be able to use the wheelchair in the home environment (e.g., wheelchair must be able to fit through doorways and cross thresholds)
- Must identify other economic alternatives considered.
- 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.

In addition:

A **standard hemi-wheelchair** may be covered when a lower seat to the floor is required.

A **standard light-weight wheelchair** may be covered when the beneficiary is unable to propel a standard wheelchair due to decreased upper extremity strength or secondary to a medical condition that affects endurance.

A **heavy-duty standard wheelchair** may be covered if the beneficiary's weight is more than 250 pounds but does not exceed 300 pounds.

An **extra heavy-duty standard wheelchair** is covered if the beneficiary's weight exceeds 300 pounds.

A **high-strength light-weight or ultra-light standard wheelchair** may be covered when required for a specific functional need.

A **back-up or secondary standard manual wheelchair** may be considered when:

- The beneficiary is primarily a power wheelchair user but needs a manual wheelchair to have access to the community or independent living.
- The beneficiary's medical condition requires a power wheelchair that cannot accommodate public transportation and, therefore, requires another transport device.

\* \* \*

### **Manual Wheelchair with Custom-Fabricated Seating System in both Community Residential and Institutional Residential Settings**

May be covered if **all** of the following are met, in addition to the Standards of Coverage listed under Manual Wheelchair in Community Residential Setting:

- Medical documentation provides a clinical assessment of the specific functional/clinical need for a custom-fabricated seating system. Documentation must specifically rule out other standard seating systems.

The seating system must also meet standards of coverage.

- Must accommodate growth and adjustments for custom-fabricated seating systems a minimum of 3" in depth and 2" in width.
- Is an integral part of the care regimen in the community residential setting or the daily nursing plan of care in an institutional residential setting.

\* \* \*

### **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.

#### **For power wheelchairs:**

- 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 (this includes the need to rest at intervals).
- Is able to safely control the wheelchair through doorways and over thresholds up to 1½".
- Has a cognitive, functional level that is adequate for power wheelchair mobility.

- Has visual acuity that permits safe operation of a power mobility device.
- Must accommodate growth and adjustments for custom-fabricated seating systems a minimum of 3" in depth and 2" in width.
- For a three-wheeled power mobility device, has sufficient trunk control and balance.

**For transport mobility medical devices (e.g., strollers):**

- Is over three years of age or has a medical condition that cannot be accommodated by commercial products.
- Will be the primary mobility device due to inability to self-propel a manual wheelchair or operate a power wheelchair.
- Is required as a transport device when the primary wheelchair cannot be designed to be transportable.
- Must accommodate growth and adjustments for seating systems a minimum of 3" in depth and 2" in width.
- Is the most economic alternative available to meet the beneficiary's mobility needs.
- Is required for use in the community residential setting.

\* \* \*

**Wheelchair Accessories**

Reimbursement may be made for separate wheelchair accessories that have designated HCPCS codes. Separate reimbursement may be considered for specific wheelchair accessory codes when provided in conjunction with the purchase of a manual wheelchair, power wheelchair, or an addition to an existing wheelchair if:

- It is required to provide safety.
- It is required for appropriate positioning.
- It is the most economical alternative.

For additions to an existing wheelchair, the physician or the occupational or physical therapist must address the status/condition of the current wheelchair and include the brand, model, serial number, and age of the current wheelchair. If MDCH did not purchase the wheelchair being modified, all documentation requirements must be provided as if the request is for a new or initial wheelchair. Refer to the Non-Covered Items section of this chapter for information on accessories that are not covered.

### **2.47.C. PRIOR AUTHORIZATION FOR PURCHASE, RENTALS, REPAIRS, AND/OR REPLACEMENT OF MOBILITY DEVICES**

#### **Prior Authorization**

The Medicaid Utilization Analyst (Program Review Division) is the authorized Medicaid representative who determines if the service requested falls within the standards of coverage. A prior authorization request may be returned or denied if the documentation is incomplete and not specific to the beneficiary and device requested.

MDCH reserves the right to request additional documentation to determine medical necessity. 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 beneficiaries in the community residential setting, the decision notice is sent to the medical supplier with a copy to the beneficiary. For beneficiaries in the institutional residential setting, the decision notice is sent to the institutional residence with a copy to the beneficiary.

Prior authorization is required for:

- All adult wheelchairs, power-operated vehicles, seating, and accessories.
- Rental of a standard wheelchair beyond three months for hospital discharge waiver.
- New and replacement custom-fabricated seating systems, and the addition of functions for tilt-in-space and/or recline (power or manual).
- Diagnosis/medical conditions that are not listed as approved to bypass prior authorization for pediatric mobility items.
- Replacement of standard wheelchairs beyond established timeframes.

#### **Clinical Documentation**

The evaluation and clinical documentation (MSA-1656) must be submitted within 90 days of the date the form is completed.

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.

\* \* \*

### **Rentals, Repairs and Replacement**

A wheelchair can be considered a **capped rental** or a **purchase** item.

**Repairs** for beneficiary-owned mobility devices are covered only after the manufacturer's warranty has been exhausted. It is the responsibility of the provider to supply loaner equipment while the original item is being serviced. If repair of a wheelchair not purchased by MDCH is requested, the item must be medically necessary and meet the basic standards of coverage. The repair of a second (older) manual or power wheelchair used as a back-up wheelchair is not covered. Repair of a wheelchair involving the replacement of a component part includes the cost of the part and the labor associated with its removal, replacement, and finishing.

**Replacement** of a mobility device is subject to the manufacturer's warranty and/or cost of repairs. The replacement may also be considered when a significant change in the beneficiary's condition has occurred or the item cannot be restored to a serviceable condition. Replacement of wheelchairs for youth will be evaluated on an individual basis due to the expected growth pattern. Based on these conditions, a wheelchair may be considered for replacement every five years for adults and every two years for children.

Medicaid will not authorize coverage of replacement of any DME item or accessory that is requested solely because new technology is available. Replacement or modifications must be medically necessary and required as a result of a change in the medical condition that makes the covered service unusable or contraindicated.

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Here, pursuant to the above policy, the Department denied Appellant's request for a Panthera manual wheelchair on the basis that Appellant already has a previously approved wheelchair meeting her mobility needs and that two wheelchairs for independent mobility are not covered.

Appellant bears the burden of proving by a preponderance of the evidence that the Department erred in denying her request. For the reasons discussed below, this Administrative Law Judge finds that Appellant has failed to meet that burden of proof.

The evidence in this case establishes and Appellant's representative does not appear to dispute that Appellant has a power wheelchair that she uses to generally meet her mobility needs. The prescription attached to the request does state that the manual wheelchair is needed for independent mobility (Respondent's Exhibit A, page 25) and a later letter from Appellant's doctor does state that patients such as Appellant require both a power wheelchair and manual wheelchair. (Petitioner's Exhibit 1, page 14). However, neither that prescription nor the letter explain why having two wheelchairs, one of each type, is medically necessary for independent mobility.

Appellant's representative does argue that a second, manual wheelchair is necessary as a back-up in case the power wheelchair breaks; for occasions where someone else has to transport Appellant; and for use in places where the power wheelchair cannot be used, such as at school; certain doctors' offices; and the homes of Appellant's grandparents. (Petitioner's Exhibit 1, pages 2, 12; Respondent's Exhibit, pages 4, 22; Testimony of Appellant's representative). Appellant's representative also argues that, as opined by Appellant's doctors, using a manual wheelchair at times would be good exercise for Appellant and benefit her greatly. (Petitioner's Exhibit 1, page 13; Respondent's Exhibit A, page 28).

However, given the presence of a previously approved power wheelchair and the reasons for which the manual wheelchair is sought, the Department properly denied Appellant's request. As described in the above policy, Medicaid generally covers durable medical equipment (DME) for use in the beneficiary's place of residence and second units for school use are specifically identified as non-covered. (MPM, April 1, 2013 version, Medical Supplier, Chapter pages 18, 37; Testimony of ██████████). As testified to by the Department's witness, to the extent Appellant cannot access parts of her school with her power wheelchair, it is the school's responsibility to make the necessary arrangements. (Testimony of ██████████).

Similarly, a second wheelchair for beneficiary preference or convenience is also expressly non-covered. (MPM, April 1, 2013 version, Medical Supplier, Chapter page 18; Testimony of ██████████). Back-up wheelchairs are also non-covered and, if the primary wheelchair ever becomes damaged or broken, the necessary arrangements can be made. (MPM, April 1, 2013 version, Medical Supplier, Chapter page 89; Testimony of ██████████).

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Moreover, to the extent Appellant's representatives and doctors assert that the manual wheelchair is necessary so that Appellant can exercise; the Department's witness correctly noted that the MPM does not authorize wheelchairs for exercise and, instead, wheelchairs are only approved for mobility purposes. (Testimony of [REDACTED]). Exercise equipment is also expressly non-covered in the MPM. (MPM, April 1, 2013 version, Medical Supplier, Chapter page 17; Testimony of [REDACTED]).

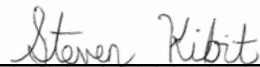
Accordingly, given the above evidence and policy, Appellant failed to meet her burden of proving by the preponderance of the evidence that the Department erred in denying the request for a manual wheelchair. The Department's decision must therefore be upheld.

**DECISION AND ORDER**

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department properly denied Appellant's request for a manual wheelchair.

**IT IS THEREFORE ORDERED THAT:**

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



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Steven Kibit

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

Date Signed: 8/12/2013

Date Mailed: 8/12/2013

[REDACTED]  
cc: [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.