

**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. 2013-50993 PA  
Case No. 32906438

**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 recline function on his wheelchair?

**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 5).
2. Appellant has been diagnosed with Spastic Quadriplegic Cerebral Palsy and Refractory Epilepsy. (Respondent's Exhibit A, pages 4-5).
3. On ██████████, the Department received a prior authorization request filed on behalf of Appellant and requesting a Convoid Rodeo stroller-style wheelchair and accessories. (Respondent's Exhibit A, page 8).
4. As part of that request, it asked for a recline function for the wheelchair. With respect to that function, the request stated that:

**Recline Option:** 90-110 degrees of manual recline opens the back angle for improved digestion, respiration, and pressure relief. Recline in combination with tilt is needed to improve positioning for diaper changes.

*Respondent's Exhibit A, page 19*

5. In response to Appellant's request, the Department requested additional information. (Respondent's Exhibit A, pages 6-7).
6. In that letter, the Department stated in part: "What is the Medical Necessity for the recline feature? It is not covered for diaper changes." (Respondent's Exhibit A, pages 19.)
7. On or about ██████████, the Department received a new and updated request for the wheelchair and accessories. (Respondent's Exhibit A, pages 8-23, 25).
8. As part of that request, Appellant submitted a Letter of Medical Necessity Addendum. With respect to the recline function, that Addendum provided:

Michael has significant medial and positioning needs secondary to spastic quadriplegia and is completely dependent for pressure relief. He requires a combination of tilt and recline to prevent skin breakdown. Michael has both tilt and recline on his current Kid Kart TLC. His caregivers use the combination of manual tilt and recline throughout the day to change his position for pressure redistribution. This combination has been successful at preventing pressure sores from developing. Michael spends a significant amount of time in his seated mobility device during the day. The recline feature is needed on his new Convoid Rodeo Tilt to change his position for pressure relief while seated in his mobility device.

*Respondent's Exhibit A, page 8*

9. The Department reviewed Appellant's prior authorization request and, while it decided to approve most of that request, it was determined that the request for a recline feature should be denied. (Testimony of ██████████).
10. On ██████████, the Department sent Appellant a Notification of Denial. (Respondent's Exhibit A, pages 25-66). Specifically, that denial stated:

The policy this denial is based on is Section 1, 1.5, 1.3, 1.10, and 2.47 of the Medical Supplier chapter of the Medicaid Provider Manual, which indicates:

Recline submitted as E1014.; Medical Necessity is not substantiated. Per provider the code is E1225 which is not in the current database. Please refer to Medical Supplier Chapter, sections 1-Program Overview, 1.5-Medical Necessity, 1.3-Place of Service, 1.10 Non-Covered Items, and 2.47-Wheelchairs, Pediatric Mobility and Positioning Medical Devices, and Seating Systems of the Medicaid Provider Policy Manual.

*Respondent's Exhibit A, page 25*

11. On ██████████, the Michigan Administrative Hearing System (MAHS) received a complete request for hearing filed on behalf of Appellant. (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 practitioners and beneficiaries in the Medicaid Provider Manual (MPM). With respect to durable medical equipment, the MPM generally 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.

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

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.

\* \* \*

### **Manual or Power Recline Feature**

May be covered when needed for relief of pressure on the seat and/or back, and one of the following applies:

- History of skin breakdown or current indication of imminent skin breakdown that cannot be controlled (or has not in the past) by less costly modalities (such as pressure relief cushions or manual pressure relief techniques).
- Has ability to tolerate a 90-135 degree range of motion at the hip, needed for reclining without triggering excessive abnormal tone.
- Is unable to tolerate an upright position in a wheelchair for long periods of time due to fatigue, shortness of breath, increased tone, or discomfort related to pressure that cannot be manually relieved.

A low shear recline back is covered when the beneficiary does not have the ability to reposition themselves in the wheelchair following reclining and the shearing would result in skin breakdown.

### **Manual Tilt-in-Space or Recline Function in Community Residential Setting**

**Manual tilt-in-space** function allows the seat and back of the wheelchair to move as a unit, such that the angle of the back to the floor changes from approximately 90 degrees to 45 degrees or less. This change in position does not affect the hip-to-knee angle. The seat may be tilted manually.

The tilt-in-space function for a wheelchair may be covered if one or more of the following apply:

- History of skin breakdown or current indication of imminent skin breakdown that cannot be controlled (or has not in the past) by less costly modalities (such

as pressure relief cushions or manual pressure relief techniques).

- Excessive extensor or flexor muscle tone that is exacerbated by change in hip angle and makes positioning in any upright chair ineffective. State reason why changing angles of position is medically necessary.
- Very low muscle tone that cannot maintain upright positioning against gravity, causing spinal anomalies.
- Beneficiary has knee contractures and a custom-molded seating system.

Coverage of both a **manual tilt-in-space and recline function** for a wheelchair requires medical need (such as high probability of the development of hip contractures) if only a tilt-in-space without recline is used. Also, there is a medical contraindication to using recline-only without the tilt-in-space function.

*MPM, April 1, 2013 version  
Medical Supplier Chapter, pages 82-83, 86-87  
(Underline and italics added)*

Here, pursuant to the above policy, the Department denied Appellant's request for a recline function on the wheelchair on the basis that the recline function was not medically necessary. Specifically, the recline function was not medically necessary because the approved wheelchair already has a manual tilt-in-space.

Appellant and his representative bear the burden of proving by a preponderance of the evidence that the Department erred in denying his 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 dispute that the wheelchair approved for Appellant has a manual tilt-in space.

Moreover, as described in the above policy, the Department cannot approve both a recline function for a wheelchair in addition to a manual tilt in space unless there is a specific medical need for both.

The only example of such a medical need given in policy is a high development of hip contractures, which does not apply in this case

As discussed above, both the initial and updated prior authorization requests do provide that the recline function is being requested in order to improve Appellant's positioning for diaper changes. However, as stated in the above policy and testified to by Hinkle, improving positioning for diaper changes is not a basis for approving a recline function. Additionally, Hinkle also testified that approved tilt-in-space is sufficient to any needs in that area.

The prior authorization request and accompanying addendum to the letter of medical necessity also stated that both the tilt-in-space and the recline function are necessary for pressure relief and to prevent skin breakdowns. However, the letter of medical necessity does not explain why the tilt-in-space is insufficient on its own or what additional, necessary benefits would be provided by a recline function. Hinkle also testified that, to the extent the tilt-in-space is being used for pressure relief, it is sufficient on its own. Similarly, the above policy specifically states that a tilt-in-space may be approved to for that purpose, so long as less costly modalities are ineffective.

Appellant's representative further argued during the hearing that the recline function is necessary for positioning and head control purposes. According to her, Appellant has no head control and slumps forward while in a wheelchair. The recline function, and some pillows, would allow the representative and others to position Appellant so that he is stable. However, that basis for the recline function is not reflected in the prior authorization request itself and, instead, the request to the Department only involved diapering and pressure sores. Nor was there any medical evidence or opinions submitted to the Department suggesting that the recline function is necessary for positioning and head control. This Administrative Law Judge is limited to reviewing the Department's decision in light of the information available at the time it made that decision. Here, the prior authorization request only offered two reasons for the request for a recline function; those reasons were insufficient given the approved tilt-in-space; and the Department properly denied the request.

Accordingly, given the above evidence and policy, Appellant failed to meet his burden of proving by the preponderance of the evidence that the Department erred in denying the request for a recline function. 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 recline function on his wheelchair.

**IT IS THEREFORE ORDERED THAT:**

The Department'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

Date Signed: 8/28/2013

Date Mailed: 8/28/2013

[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.