

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF COMMUNITY HEALTH**

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IN THE MATTER OF:

Docket No. 2013-50994 PA
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]. [REDACTED] represented the Appellant. Her witness was [REDACTED]. [REDACTED], Appeals Review Officer, represented the Department. Her witness was [REDACTED], PA unit/MDCH.

ISSUE

Did the Department properly deny Appellant's request for prior authorization?

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 fifteen [REDACTED] year-old Medicaid beneficiary. (Appellant's Exhibit 1)
2. The Appellant is afflicted with chondrodystrophy, idiopathic scoliosis and congenital postural deformity.(Department's Exhibit A, pp. 9 and 10)
3. The Appellant has a need for Pride Mobility Go Go Elite Scooter and certain repairs thereto. (Department's Exhibit A, pp. 2, 5 and 6)
4. On [REDACTED], the Department received the amended request for the replacement of the electric top console which was denied. Department's Exhibit A, pp. 2 and 9)
5. That information was reviewed by the PRD and denied on [REDACTED]. (Department's Exhibit A, pp. 7, and 8)
6. The Department representative said the PA was denied for lack of

establishing medical necessity for early replacement of the component part requested. (See Testimony)

7. The supplier was advised to check the warranty conditions, supply a loaner and not charge the Appellant. (See Testimony of ██████████ and Department's Exhibit A, pp. 7 through 9)
8. The Appellant's representative said that the Appellant's request for a new console was made owing to the tendency of the Appellant's key to fall out. They added that replacement parts had always been covered in the past. (See Testimony)
9. The instant request for hearing was received by the Michigan Administrative Hearing System (MAHS) for the Department of Community Health 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.

It is axiomatic that the Medicaid program exists to ensure that medically necessary services and equipment are made available to those who would not otherwise have the resources to purchase them. It is also fundamental that Medicaid is payor of last resort and always covers the least costly alternative that meets the beneficiary's medical need.

The Medicaid Provider Manual (MPM) provides, in pertinent part, as follows:

[] 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.

Medicaid will not authorize coverage of items because the item(s) is the most recent advancement in technology when the beneficiary's current equipment can meet the beneficiary's basic medical/functional needs.

MPM, Medical Supplier, §1.5, July 1, 2013, pages 4, 5.

[] REPAIRS AND REPLACEMENT PARTS

Repairs and the replacement of component parts for DME owned by the beneficiary are reimbursable if MDCH purchased the item. If MDCH did not purchase the original item, it must be medically necessary, meet the Standards of Coverage detailed in this chapter, and include the required supporting documentation.

For purchased items, all conditions of the warranty must be followed prior to requesting any repairs or replacement parts. Routine periodic servicing, such as cleaning, testing, regulating, and checking of equipment, is also included in the cost of the equipment. If equipment is found to be defective or not operating properly, it must be removed from service and cannot be placed into use again until it is brought up to manufacturer's operating standards and specifications. It is the responsibility of the provider to supply loaner equipment while the beneficiary-owned item is being serviced at no charge to MDCH. For audit purposes, all suppliers must maintain protocols and records defining how the maintenance of equipment is to be achieved.

MDCH will consider reimbursement for a replacement when it is more costly to repair than replace. When submitting a PA request for a replacement, the provider must provide a statement regarding the cost to repair the service versus replacement.

MPM Supra at §1.8.C pages 14 and 15

The Appellant's representative explained that there was a pre-existing mechanical failure in the scooter causing the ignition key to fall out. She stressed that the Appellant did nothing abusive to the unit.

The Department's witness, ██████████, testified that on review of the amended PA that she discovered that the same device was repaired or replaced in ██████████ – and that the control panel is [typically] not replaced that often. She added that the medical necessity for the

