

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. 2013-54666 CL

██████████

██████████

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 ██████████ ██████████ daughter, appeared on the Appellant's behalf. ██████████, Appeals Review Officer, represented the Department. ██████████ Contract Manager, appeared as a witness for the Department.

ISSUE

Did the Department properly deny coverage of pull-on briefs?

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 an ██████-year-old Medicaid beneficiary.
2. The Appellant's medical history includes Alzheimer's disease, incontinence, arthritis, asthma and hypertension. (Exhibit 1, pages 7-8)
3. On ██████████, ██████████ the Department's contractor for the Diaper and Incontinent Supplies Program, conducted a telephone nursing assessment with the Appellant's daughter for a ██████ month review. It was reported that the Appellant no longer goes into the bathroom, does not use bedside commode, uses primary product for urination/bowel movement and is changed in bed. It was also reported that the Appellant is very wet, leaks onto the bed and runs out of product. (Exhibit 1, page 8)

4. On ██████████ the Department sent the Appellant an Advance Action Notice stating that pull-ons shall not be authorized because the information provided did not support coverage of this service. (Exhibit 1, page 6)
5. On ██████████, the Michigan Administrative Hearing System received the Request for Hearing filed on the Appellant's behalf. (Exhibit 1, pages 4-5)

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.

The Department policy regarding coverage of incontinence products, including pull-on briefs, is addressed in the MDCH Medicaid Provider Manual (MPM):

2.19 Incontinent Supplies

Incontinent supplies are items used to assist individuals with the inability to control excretory functions.

The type of coverage for incontinent supplies may be dependent on the success or failure of a bowel/bladder training program. A bowel/bladder training program is defined as instruction offered to the beneficiary to facilitate:

- Independent care of bodily functions through proper toilet training.
- Appropriate self-catheter care to decrease risk of urinary infections and/or avoid bladder distention.
- Proper techniques related to routine bowel evacuation.

Standards of Coverage (Applicable to All Programs)

Diapers, incontinent pants, liners, and belted/unbelted undergarments without sides are covered for individuals age three or older if both of the following applies:

- A medical condition resulting in incontinence and there is no response to a bowel/bladder training program.

- The medical condition being treated results in incontinence, and beneficiary would not benefit from or has failed a bowel/bladder training program.

Pull-on briefs are covered for beneficiaries age 3 through 20 when there is the presence of a medical condition causing bowel/bladder incontinence, and one of the following applies:

- The beneficiary would not benefit from a bowel/bladder program but has the cognitive ability to independently care for his/her toileting needs, or
- The beneficiary is actively participating and demonstrating definitive progress in a bowel/bladder program.

Pull-on briefs are covered for beneficiaries age 21 and over when there is the presence of a medical condition causing bowel/bladder incontinence and the beneficiary is able to care for his/her toileting needs independently or with minimal assistance from a caregiver.

Pull-on briefs are considered a short-term transitional product that requires a reassessment every six months. The assessment must detail definitive progress being made in the bowel/bladder training. Pull-on briefs covered as a long-term item require a reassessment once a year or less frequently as determined by MDCH.

Documentation of the reassessment must be kept in the beneficiary's file.

Incontinent wipes are covered when necessary to maintain cleanliness outside of the home.

Standards of Coverage (Not Applicable to CSHCS Only Beneficiaries)

Intermittent catheters are covered when catheterization is required due to severe bladder dysfunction. **Hydrophilic-coated intermittent catheters** are considered for individuals that have Mitrofanoff stomas, partial stricture or small, tortuous urethras.

Intermittent catheters with insertion supplies are covered for beneficiaries who have a chronic urinary dysfunction for which sterile technique is clinically required.

Documentation

Documentation must be less than 30 days old and include the following:

- Diagnosis of condition causing incontinence (primary and secondary diagnosis).
- Item to be dispensed.
- Duration of need.
- Quantity of item and anticipated frequency the item requires replacement.
- For pull-on briefs, a six-month reassessment is required.

*MDCH Medicaid Provider Manual,
Medical Supplier Section,
January 1, 2013, Pages 42-43.*

The Contract Manager testified that under the Department policy, the Appellant did not meet the criteria for pull-on briefs based on the information reported during the [REDACTED], telephone nursing assessment. The Department's policy requires the beneficiary to be able to care for her toileting needs independently or with minimal assistance from a caregiver. The information provided by the Appellant's daughter indicated that the Appellant no longer goes into the bathroom, does not use bedside commode, uses primary product for urination/bowel movement and is changed in bed. It was also reported that the Appellant is very wet, leaks onto the bed and runs out of product. (Exhibit 1, page 8) Accordingly, the Department denied the request for pull-on briefs because the information provided indicated that the Appellant does not toilet independently or with minimal assistance from a caregiver. (Contract Manager Testimony)

The Appellant's daughter disagrees with the denial, and testified that it is easier to change the Appellant with the pull-on briefs. The Appellant hates the diapers with the stickers, which she opens and takes off. The Appellant has itching between her legs with the diapers. The Request for Hearing also indicates the pull-on briefs are more protective from leaks and work with liners. (Daughter Testimony; Exhibit 1, pages 4-5)

While this ALJ sympathizes with the Appellant's circumstances, the evidence supports the Department's determination to deny coverage of pull-on briefs. The evidence indicates that the Appellant is not independent or only needs minimal assistance from a caregiver with toileting. Accordingly, the Appellant did not meet the criteria for pull-on briefs.

[REDACTED]
Docket No. 2013-54666 CL
Decision and Order

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department's denial of coverage for pull-on briefs was in accordance with Department policy.

IT IS THEREFORE ORDERED that:

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

/s/
Colleen Lack
Administrative Law Judge
for James K. Haveman, Director
Michigan Department of Community Health

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

CL/db

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.