

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. 2013-62557 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.*, upon Appellant's request for hearing.

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

ISSUE

Did the Department properly deny the Appellant's prior authorization request for an Otto Bock Kimba 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 ██████ year old Medicaid beneficiary, born ██████████, who has been diagnosed with cerebral palsy with hypotonicity of the trunk and intermittent moderate-severe spasticity throughout the trunk and extremities. (Exhibit A, pp 8-10; Testimony)
2. On or about ██████████, the Department's consulting physician reviewed a prior authorization (PA) request from Appellant for an Otto Bock Kimba wheelchair and accessories and determined that medical necessity for a second wheelchair with custom seating and positioning was not substantiated because Appellant has previously been approved for a power wheelchair with tilt, custom seating, and attendant control. (Exhibit A, pp 8-27; Testimony)
3. On ██████████, the Department issued a Notification of Denial to

Appellant and the medical supplier stating that the PA request was denied because medical necessity for a second wheelchair with custom seating and positioning was not substantiated because Appellant has previously been approved for a power wheelchair with tilt, custom seating, and attendant control. The notice indicated that Appellant could resubmit a prior authorization request for a more economical alternative without custom seating. (Exhibit A, pp 6-7)

4. On ██████████, the Michigan Administrative Hearing System received the hearing request filed on Appellant's behalf. (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.

The Medicaid Provider Manual provides, in pertinent part, 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.

* * * *

1.8.C. 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.

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

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

* * * *

- Second wheelchair for beneficiary preference or convenience.

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2.48 WHEELCHAIRS, PEDIATRIC MOBILITY AND POSITIONING MEDICAL DEVICES, AND SEATING SYSTEMS

* * * *

2.48.B. STANDARDS OF COVERAGE

Pediatric Mobility Devices and Wheelchairs

May be covered if **all** of the following are met for each type of device.

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.

MDCH Medicaid Provider Manual
Medical Supplier Section
July 1, 2013, pp 1, 3-5, 14 ,17-18, 85-86
Emphasis added.

In the present case, the Department determined that the PA request should be denied because medical necessity for a second wheelchair with custom seating and positioning was not substantiated because Appellant had previously been approved for a power wheelchair with tilt, custom seating, and attendant control.

In the request for hearing, Appellant's mother indicated that Appellant needs a second wheelchair with custom seating and positioning to use as a backup when Appellant's wheelchair is being fixed. Appellant's mother indicated that they have tried an economical wheelchair in the past and it has not worked for Appellant. (Exhibit 1)

The Medicaid Utilization Analyst testified that the request for a second wheelchair with custom seating and positioning was denied because Appellant had previously been approved for a power wheelchair with tilt, custom seating, and attendant control. The Medicaid Utilization Analyst indicated that Appellant's approved power wheelchair is the most economical alternative available because it is already paid for and it meets Appellant's needs. The Medicaid Utilization Analyst testified that Appellant's power wheelchair has attendant control, meaning that a caregiver can operate the wheelchair from behind. The Medicaid Utilization Analyst also pointed out that the attendant control can be disconnected and the power wheelchair can be pushed manually. The Medicaid Utilization Analyst also testified that if Appellant's power wheelchair is being repaired, the provider must supply Appellant with a loaner wheelchair at no cost to the Department. The Medicaid Utilization Analyst also testified that Medicaid will only pay for medical equipment for use in a person's home, such as the power wheelchair in this case. The Medicaid Utilization Analyst explained that she had to base her decision on the information that she had at the time and, based on that information, the Department's denial was proper.

Appellant's mother testified that they have tried numerous economical strollers in the past and that they do not meet Appellant's needs. Appellant's mother testified that when they received the denial from the Department, the medical supplier brought out the three economical alternatives that they supply, and none of the alternatives worked for Appellant. Appellant's mother indicated that Appellant could thrust himself out of the Cruiser Classic (Exhibit 2), the Rodeo Tilt did not have lateral control, needed because Appellant scissors his legs (Exhibit 3), and the EZ Rider did not tilt at all, a requirement for Appellant because he cannot sit up on his own. Appellant's mother indicated that Appellant needs positioning in a chair or stroller because his tone is always changing; he will be relaxed one minute and thrusting the next. Appellant's mother testified that Appellant needs head control because he cannot hold up his head on his own.

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Appellant's mother also indicated that the stroller they requested came with an activity tray, which the power wheelchair does not have. Appellant's mother testified that while the attendant control on the power wheelchair can be turned off, the wheelchair is difficult to then push because it weighs over 400 pounds. Appellant's mother indicated that the medical supplier has told them that they do not have loaner wheelchairs for use when the power wheelchair is being repaired. Appellant's mother indicated that a stroller would be much easier to use out in public, especially for shorter trips and when they visit friends' homes, or other public places where the power wheelchair will not go.

Based on the documentation submitted, Appellant did not meet the Medicaid standards of coverage and documentation requirements to establish medical necessity for the requested second wheelchair and accessories. Appellant has previously been approved for a power wheelchair with tilt, custom seating, and attendant control which meets his needs. While it may be more convenient to have the second wheelchair that was denied, Medicaid will not pay for a second wheelchair for beneficiary preference or convenience. Furthermore, the supplier is mandated to provide Appellant with a loaner wheelchair that meets his needs, at no cost to the Department, when Appellant's power wheelchair is being repaired. Finally, while it is unfortunate that the alternatives that this supplier has did not work for Appellant, the denial here was not primarily based on the existence of economic alternatives; the denial was primarily based on the fact that Medicaid has already provided Appellant with a power wheelchair that meets his needs in his home, and is also designed to be used in public. Accordingly, the Department's denial must be upheld.

Appellant's family is encouraged to continue to seek a second wheelchair that is more economical than the one requested, given that the Department has indicated that they would approve a less expensive second wheelchair.

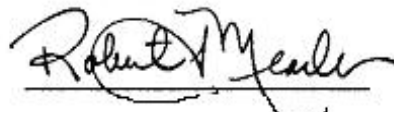
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DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly denied the Appellant's request for an Otto Bock Kimba wheelchair and accessories based on the submitted documentation.

IT IS THEREFORE ORDERED that:

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



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

[REDACTED]
cc: [REDACTED]

Date Signed: November 1, 2013

Date Mailed: November 1, 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 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.