

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

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**IN THE MATTER OF:**

**Docket No. 2013-65010 PA**

██████████

██████████

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 ██████████. The Appellant's parents ██████████ appeared and testified on behalf of the Appellant. ██████████, Appeals Review Officer, represented the Department. ██████████ Medicaid Utilization Analyst, appeared as a witness for the Department.

**ISSUE**

Did the Department properly deny Appellant's request for prior authorization (PA) of a Stealth 14" Lightning Stroller (a folding adjustable pediatric 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. The Appellant is a ██████-year old (██████████) developmentally disabled, Medicaid beneficiary. (Exhibit A, pp. 5, 7, 8-12. and testimony).
2. The Appellant has diagnoses of Prader-Willi syndrome, hypotonia and hearing loss. (Exhibit A, pp. 9, 10, 11, 12).
3. The Appellant has outgrown his Convaid Cruiser wheelchair/stroller. (Exhibit A, pp. 4, 14 and testimony).
4. Appellant's physical therapist has recommended a Stealth 14" Lightning Stroller, due to his limited ambulation abilities and reduced endurance to meet the Appellant's mobility needs. (Exhibit A, pp. 9 and 8).
5. The Appellant's representatives seek the above referenced model to allow the Appellant to be able to get around and most importantly for school bus transit. (Exhibit A, p. 4 and testimony).

6. On ██████████ the Department received a Prior Authorization (PA) request for a 14" Lightening Stroller. On ██████████ the Department's Program Review Division sent out a Request for Additional Information which stated they needed information ruling out transport chairs for a more economical alternative. (Exhibit A, pp. 8, 10-16, and testimony).
7. On ██████████, a new request for the 14" Lightening Stroller was received. Following review - the request for PA was denied on ██████████. The denial notice stated: "Economical alternatives are available. Provider may resubmit for an economical alternative. Please refer to the Medical Supplier Chapter sections 1-Program Overview, 1.3-Place of Service, 1.5-Medical Necessity, 1.10-Non-covered Items, and 2.48-Wheelchairs, Pediatric Mobility and Positioning Medical Devices and Seating Systems of the Medicaid Provider Policy Manual. (Exhibit A, p. 5 and testimony).
8. The Department advised the Appellant's representative that the school is responsible for securing a stroller for school bus transportation of the Appellant. (Testimony).
9. On ██████████ the Michigan Administrative Hearing System received the hearing request filed on the Appellant's behalf. (Exhibit A, p.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.

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, Medical Supplier Chapter*, July 1, 2013 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.

\* \* \*

### **Durable Medical Equipment (DME)**

DME are those items that are Food and Drug Administration (FDA) approved, can stand repeated use, are primarily and customarily used to serve a medical purpose, are not useful to a person in the absence of illness or injury, and can be used in the beneficiary's home. Examples are: hospital beds, wheelchairs, and ventilators. DME is a benefit for beneficiaries when:

- It is medically and functionally necessary to meet the needs of the beneficiary.
- It may prevent frequent hospitalization or institutionalization.
- It is life sustaining. [p. 1, emphasis added].

\* \* \*

### **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. [p. 3, emphasis added].

\* \* \*

## 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.

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. [pp. 4-5, emphasis added].

\* \* \*

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

### **2.48.A. DEFINITIONS**

\* \* \*

#### **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.

\* \* \*

### **2.48.A. 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. [pp. 84-86, emphasis added].

\* \* \*

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

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.

\* \* \*

Prior authorization is required for:

- Power wheelchairs, power-operated vehicles, seating, and accessories.
- 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. [p. 89, emphasis added].

The Department witness, ██████████ testified that the Appellant's PA request for a folding adjustable pediatric wheelchair was denied on ██████████ (Exhibit A, p. 5). ██████████ acknowledged that there was a request for additional information sent out by the Department on ██████████ asking for information to rule out transport chairs for a more economical alternative. ██████████ stated the information later submitted did not provide the necessary information to rule out transport chairs as an economical alternative.

██████████ stated on ██████████ they received a new PA request for the same item, and based on the information submitted with the new PA request the request was denied as it did not rule out the use of the economical alternative of a transport chair. (Exhibit A, p. 9). ██████████ noted the information indicated the Appellant had no problem sitting up. He could do some standing, he had normal muscle tone, and he had fairly good range of motion. ██████████ further noted the information indicated the Appellant could walk a distance with several rest breaks using a reverse walker. It was also indicated that the Appellant had good body strength and could self-propel a wheelchair. ██████████ stated the information submitted with the PA did not indicate a need for a 5 point positioning harness for support and that the PA request failed to demonstrate medical necessity for the requested stroller when other suitable, but less costly, alternatives were available.

In response to the Appellant's representative's question about the need for tie downs on the school bus, ██████████ responded that it was the responsibility of the school system to provide the necessary security measures for transporting the Appellant on a school bus.

The Appellant's parents questioned some of the information contained in the Evaluation and Medical Justification form submitted along with the PA request that was apparently filled out by the Appellant's physical therapist and concurred with by Appellant's doctor. While the form indicates the Appellant has normal muscle tone, the parents indicated the Appellant has hypotonia or low muscle tone. The parents indicated the Appellant is not floppy but does not have normal muscle tone. It was also noted that the form indicates the Appellant is able to self-propel a wheel chair, but the parents indicated this is not accurate. The parents indicated the Appellant does a fair job with mobility in the home, but his effort is short in duration. He can go up some stairs with assistance, but cannot go down stairs. It was also stated that the Appellant does not use his stroller in the home and must use a 5 point positioning harness for support at all times. The parents indicated they have been attempting to get a new stroller for their son since last October, and are just trying to get something that will work for him and have the ability for an adjustment to accommodate growth.

[REDACTED]  
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Decision & Order

Based on the documentation submitted the Appellant's PA did not meet Medicaid standard of coverage for a manual pediatric wheelchair. Accordingly, the Department's denial must be upheld.

**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 a Stealth 14" Lightning Stroller, (a folding adjustable pediatric wheelchair), based on the information submitted along with the PA request.

**IT IS THEREFORE ORDERED** that:

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

*William D Bond*

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

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

WDB/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.