

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

P.O. Box 30763, Lansing, MI 48909
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IN THE MATTER OF:

Docket No. 2013-65718 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 ██████████ mother, represented the Appellant. ██████████ Rehab Provider, ██████████ Wheelchair and Seating Service, appeared as a witness for the Appellant. ██████████ Manager Appeals Section, represented the Department. ██████████, RN, Medicaid Utilization Analyst, appeared as a witness for the Department.

ISSUE

Did the Department properly deny the Appellant's prior authorization request for some of the accessories for the approved Easy Stand Evolve Youth Stander?

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 Medicaid beneficiary who has been diagnosed with infantile cerebral palsy, congenital quadriplegia, idiopathic torsion dystonia, and congenital subluxation of hip unilateral. (Exhibit 1, page 2)
2. On or about ██████████, the Department received a prior authorization request for an Easy Stand Evolve Youth Stander and accessories for the Appellant. (Exhibit 1, page 4)
3. On ██████████, the Department requested additional information. (Exhibit 1, page 4)

4. On or about ██████████, Department received the resubmitted prior authorization request, with response to the request for additional information. (Exhibit 1, pages 2-26)
5. On ██████████ the Department determined that the stander and most requested accessories should be approved as the most cost effective components that meet the Appellant's medical necessity. The Department determined that medical necessity was not substantiated for five denied components: back angle adjust wheel, seat angle locator, push handle, Whitmeyer onyx headrest contour cradle, and a custom overlay for tray. (Exhibit 1, pages 2-3)
6. On ██████████, the Department issued a Notice of Amended Authorization and a Notification of Denial Request for Administrative Hearing to the Appellant indicating the prior authorization was approved for the Easy Stand Youth Stander and some accessories, but specifying which accessories were denied. (Exhibit 1, pages 29-32)
7. On ██████████, the Michigan Administrative Hearing System received the hearing request filed on the Appellant's behalf.
8. On ██████████, the Department issued another Notice of Amended Authorization to the Appellant regarding the approval of the stander and most accessories and the denial of the five specified accessories. (Exhibit 1, pages 33-34)

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.

* * *

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.

* * *

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.

* * *

2.7 CHILDREN'S PRODUCTS

Definition Children's products that may be considered for coverage include, but are not limited to, equipment that is used in the home or vehicle by children under age 21 for the purposes of positioning, safety during activities of daily living, or assisted mobility. Examples of these items include: bath supports, specialized car seats, corner chairs, dynamic standers, feeder seats, gait trainers, pediatric walkers, positioning commodes, side lyers, standers, and toileting supports.

Standards of Coverage

Children's products are covered if one or more of the following applies:

- Beneficiary is unable to independently maintain a seated position.
- Beneficiary cannot stand and/or ambulate without the aid of an assistive device.
- Beneficiary has physical anomalies that require support to allow a functional position or prevent further disability.

Documentation

Documentation must be less than 180 days old and include **all** of the following:

- Diagnosis appropriate for the equipment requested.
- Any adaptive or assistive devices currently used in the home.
- Reason economic alternatives cannot be used, if applicable.
- Statement of functional need from an appropriate pediatric subspecialist, occupational or physical therapist.

PA Requirements

PA is required for all requests.

MDCH Medicaid Provider Manual,
Medical Supplier Section
April 1, 2013, pages 1, 3-5, and 27

In the present case, the Department determined that the Appellant's prior authorization request for the stander and most of the requested accessories should be approved as the most cost effective components that meet the Appellant's medical necessity. However, the Department determined that medical necessity was not substantiated for five denied components: back angle adjust wheel, seat angle locator, push handle, Whitmeyer onyx headrest contour cradle, and a custom overlay for tray. (Exhibit 1, pages 2-3) The RN Medicaid Utilization Analyst explained that medical devices are covered if they are the least costly alternative that meets the medically necessary needs. The Department considered the Appellant's other positioning and mobility equipment, which includes a wheelchair. Accordingly, components that allow the stander to be utilized as a secondary mobility device, such as the push handle, could not be approved. (RN Medicaid Utilization Analyst Testimony) A product description for the back angle adjustment wheel indicates this accessory is utilized for multi-user environments. (Exhibit 1, page 66) As the Appellant would be the only user for the approved stander, the Department did find medical necessity was met for the back angle adjustment wheel. (RN Medicaid Utilization Analyst) A product description for the seat angle locator indicates this accessory is utilized by therapists to monitor standing progress. (Exhibit 1, page 52) In this case, the stander was requested for home use so the seat angle locator was not appropriate for the home setting. (RN Medicaid Utilization Analyst) The RN Medicaid Utilization Analyst noted that the prior authorization request included two headrests, the standard headrest for this stander and a Whitmeyer onyx headrest contour cradle. The Department could not approve two headrests. The documentation was not sufficient to support medical necessity for the

Whitmeyer onyx headrest contour cradle, so only the standard headrest was approved. (Exhibit 1, page 3; RN Medicaid Utilization Analyst Testimony) Lastly, the Department looked at a product description for a padded tray cover. (Exhibit 1, page 60-61) The requested custom overlay for the tray for the Appellant's stander was denied because there was insufficient documentation of function to show this accessory was medically necessary. (RN Medicaid Utilization Analyst Testimony)

The Appellant's mother disagrees with the denial of these components. The Appellant's mother testified that the Appellant has always required a special head rest for past standers. The Appellant does not have the best head control, and with the way it tends to drop and roll to the side, the Appellant becomes trapped under the head rest. This is why the Appellant needs a more supportive head rest. The Appellant's mother further explained that the requested tray overlay was not just a cover. The requested overlay for the tray would prevent the Appellant from injuring herself, specifically from tearing up her elbows on the metal. (Mother Testimony)

The Rehab Provider explained that the approved stander does both sitting and standing positions. The back angle adjustment wheel is not just for multi user environments. The requested wheel allows the angle of the backrest to be changed more easily for both sitting and upright positions. The Rehab Provider also stated that the requested seat angle monitor is not only for therapist use, but can also be used by the family to document the Appellant's progress with weight bearing. The Rehab provider also noted that a custom tray overlay was requested, not the tray cover the department considered. This custom overlay would be specific for the Appellant's stander and no picture can be found on a website. In this case, the overlay would be made specifically to get the back part of the tray to come out more to prevent the Appellant from getting trapped when her arms drop down, which can result in the Appellant cutting up her elbows. Lastly, the Rehab Provider acknowledged that including the standard headrest in the prior authorization request was an error, which he believed had been corrected on the second submission of the prior authorization request. (Rehab Provider Testimony)

Based on the documentation submitted, the Appellant did not meet the Medicaid standards of coverage and documentation requirements to establish medical necessity for the denied accessories for the approved stander. The Medicaid Provider Manual policy only allows for coverage of a medical device if it is the least costly alternative that meets medically necessary needs. It was uncontested that the Appellant has a wheelchair. Accessories that allow the stander to be utilized as a secondary mobility and seating device, like the push handle, cannot be considered medically necessary. The evidence did not establish that the ability to change the back angle requires the back angle adjustment wheel. The product description indicates this wheel replaces the standard 5 point knob to allow for quick adjustment. (Exhibit 1, page 66) Accordingly, it appears the back angle adjustment wheel would be convenient and easier, but is not required for the stander's ability to function. Similarly, the seat angle locator would be convenient for documenting the Appellant's progress with weight bearing, but is not required for the stander to function. While the Department erred by looking at the

product description for a non-custom padded tray cover, the information provided with the [REDACTED], addendum for the prior authorization request was not specific regarding the Appellant's risk of harm, specifically cutting her elbow, if the stander is utilized without the custom tray overlay. (Exhibit 1, page 8) Lastly, there was no documentation submitted for this prior authorization request indicating the standard headrest was inappropriate for the Appellant. The standard headrest was included in the prior authorization request when it was resubmitted in response to the request for additional information. (Exhibit 1, pages 2-3 and 6-8) Including the standard head support indicated this item would be appropriate for the Appellant. Medical necessity was not established for the second head rest. Accordingly, the Department's denial of these five accessories must be upheld based on the documentation that was submitted.

As discussed during the telephone hearing proceedings, if there is additional information to support the medical necessity of these stander accessories, a new prior authorization request can be submitted for the Appellant.

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 some of the accessories for the approved Easy Stand Evolve Youth Stander based on the submitted documentation.

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]

Docket No. 2013-65718 PA
Decision and Order

***** 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.