

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. 2013-69545 QHP

██████████,

████████████████████

Appellant.

_____ /

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37, and upon a request for a hearing filed on behalf of the minor Appellant.

After due notice, an in-person hearing was held on ██████████ the Appellant's father and guardian, appeared on the Appellant's behalf. ██████████ and ██████████, two of Appellant's care providers testified on behalf of the Appellant. ██████████ appeared on behalf of ██████████ or Medicaid Health Plan (MPH). ██████████ Medical Director of Utilization Management appeared as a witness for ██████████.

ISSUE

Did Meridian properly deny Appellant's request for an enclosed bed system?

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 was born on ██████████ and was ██████ years-old at the time of the hearing. Appellant has diagnoses of Rett's Syndrome, seizure disorder, autonomic dysfunction that causes breath holding, apnea and drops in blood pressure. (Exhibit A, pp. 13-14 and testimony).
2. On ██████████, ██████████ received a request from ██████████ made on behalf of Appellant for an enclosed bed system, i.e., a ██████████. (Exhibit A, pp. 11-22).
3. On ██████████ issued an initial denial of the Appellant's prior authorization request for the enclosed bed system. The notice stated that

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a ██████████ Physician reviewer had reviewed the prior authorization request and the reason for the denial was that the clinical information submitted with the prior authorization request did not support the ██████████ Medicaid Certificate of Coverage. The notice provided:

The notes sent show you have a seizure disorder with cognitive and communicative impairments. However, the notes sent do not show that you have had a trial/failure of less costly alternatives such as a floor level mattress with surrounding pads, padding around a regular bed or hospital bed, and/or a helmet to protect from head banging. Additionally, the notes sent do not show a medical need for an adjustable height hospital bed. Per the Michigan Department of Community Health (MDCH) Medicaid Provider Manual, medical devices are covered if they are the most cost-effective treatment available in the least restrictive environment. MHP would consider providing a lift if needed to assist in lifting you to a chair or higher surface for personal care. Please follow up with your physician to discuss other care options. (Exhibit A, pp. 23-24, 33-34).

4. On ██████████, ██████████ received a request from ██████████ ██████████ made on behalf of Appellant for a Level 1 Review of the ██████████ denial. (Exhibit A, pp. 44-58). The clinical information submitted for the Level 1 Review duplicated the information submitted with the original prior authorization request, except there was a two page Addendum from Appellant's physical therapist, ██████████, PTMS and a Psychosocial Assessment dated ██████████ from ██████████ (Exhibit A, pp. 48-49, 58).
5. On ██████████ sent Appellant written notice following the Level 1 Review indicating that the request for an enclosed bed system was being denied. The reason for the denial was that the clinical information submitted with the prior authorization request did not support the ██████████ Medicaid Certificate of Coverage. The notice provided:

The notes sent show the member is not able to walk or stand up without help. The notes sent also show that the member does require position changes due to risk of pressure sores and apnea, but these changes do not need to be immediate. Additionally, the member is not able to manage the electric bed controls. A manually adjustable hospital bed with rails and seizure pads would be adequate to allow the member's caretaker to adjust her positions. Per the Michigan

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Department of Community Health (MDCH) Medicaid Provider Manual, medical devices are covered if they are the most cost-effective treatment available in the least restrictive environment. [REDACTED] would provide a lift if needed to assist in the member's caregiver in lifting her to a chair or higher surface for personal care. (Exhibit A, pp. 4, 91).

6. On [REDACTED], the Michigan Administrative Hearing System (MAHS) received a request for hearing with respect to the denial of [REDACTED] filed on behalf of Appellant. (Exhibit A, p. 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.

In 1997, the Department received approval from the Health Care Financing Administration, U.S. Department of Health and Human Services, allowing Michigan to restrict Medicaid beneficiaries' choice to obtain medical services only from specified Medicaid Health Plans. The Respondent is in one of those Medicaid Health Plans and, regarding such plans, the Michigan Medicaid Provider Manual states:

SECTION 1 – GENERAL INFORMATION

The Michigan Department of Community Health (MDCH) contracts with Medicaid Health Plans (MHPs), selected through a competitive bid process, to provide services to Medicaid beneficiaries. The selection process is described in a Request for Proposal (RFP) released by the Office of Purchasing, Michigan Department of Technology, Management & Budget. The MHP contract, referred to in this chapter as the Contract, specifies the beneficiaries to be served, scope of the benefits, and contract provisions with which the MHP must comply. Nothing in this chapter should be construed as requiring MHPs to cover services that are not included in the Contract. A copy of the MHP contract is available on the MDCH website. (Refer to the Directory Appendix for website information.)

MHPs must operate consistently with all applicable published Medicaid coverage and limitation policies. (Refer to the General Information for Providers and the Beneficiary Eligibility chapters of this manual for

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additional information.) Although MHPs must provide the full range of covered services listed below, MHPs may also choose to provide services over and above those specified. **MHPs are allowed to develop prior authorization requirements and utilization management and review criteria that differ from Medicaid requirements.** The following subsections describe covered services, excluded services, and prohibited services as set forth in the Contract. [*Medicaid Provider Manual, Medicaid Health Plan (MHPs)*, April 1, 2013, p. 1 (emphasis added)].

Among the services that must be covered by MPH's is durable medical equipment. With respect to the prior authorization requirements in this case, ██████████ Policy and Procedure Manual states:

II. Description

Durable Medical Equipment (DME)

DME are those items that are Food and Drug Administration (FDA) approved, **(added relative to bulletin MSA 10-16)** 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:

1. It is medically and functionally necessary to meet the needs of the beneficiary.
2. It may prevent frequent hospitalization, institutionalization, or ER visits.
3. It is life-sustaining.

The Medicaid Provider Manual further provides coverage for durable medical equipment including enclosed bed systems. The manual provides in part:

2.12 Enclosed Bed Systems

Definition

An Enclosed Bed System includes the mattress, bed frame, and enclosure as one unit.

Standards of Coverage

An Enclosed Bed System may be covered if the following applies:

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- There is a diagnosis/medical condition (e.g., seizure activity) which could result in injury in a standard bed, crib, or hospital bed; and
- There are no economic alternatives to adequately meet the beneficiary's needs.

Documentation

The documentation must be less than six months old and include:

- Diagnosis/medical condition requiring use of the bed and any special features (if applicable).
- Safety issues resulting from the medical condition and related to the need for an Enclosed Bed System.
- Other products or safety methods already tried without success (e.g., bumper pads/rails).
- Type of bed requested.
- Type of special features requested, if applicable.

Noncovered Conditions

Enclosed Bed Systems are not covered when the purpose is to restrain the beneficiary due to behavioral conditions, caregiver need or convenience, etc.

PA Requirements

PA is required for all Enclosed Bed Systems.

Payment Rules

The Enclosed Bed System is considered a **purchase only** item.

For Youth Beds, refer to the Hospital Beds subsection of this chapter. [*Medicaid Provider Manual, Medical Supplier, §2.12 Enclosed Bed Systems, April 1, 2013, pp. 31-32*].

Pursuant to the above policy, ██████████ denied Appellant's request on the basis that the documentation accompanying the prior authorization request did not show that the Appellant had a trial/failure of less costly alternatives such as a floor level mattress with

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surrounding pads, padding around a regular bed or hospital bed, and/or a helmet to protect from head banging. Additionally, the documentation did not show a medical need for an adjustable height hospital bed. The documentation showed the Appellant was not able to walk or stand up without help. The documentation showed the Appellant did require position changes due to risk of pressure sores and apnea, but these changes did not need to be immediate. Additionally, the Appellant is not able to manage the electric bed controls, and a manually adjustable hospital bed with rails and seizure pads would be adequate to allow the member's caretaker to adjust the Appellant's positions. ██████ noted that per the Medicaid Provider Manual, medical devices are covered if they are the most cost-effective treatment available in the least restrictive environment. Finally, ██████ stated it would provide a lift if needed to assist in the Appellant's caregiver in lifting her to a chair or higher surface for personal care.

██████ also testified and elaborated on the reasons for their denial during the hearing. ██████ acknowledged that the Appellant is an ██████ year old with Rett's Syndrome a neurological disorder causing her to develop an inability to move her hands and arms, problems with coordination, an inability to speak, and that has resulted in significant disabilities. ██████ also noted that the Appellant has a seizure disorder resulting in problems for which the Appellant's provider believes may warrant an enclosed bed system. It was further noted that the Appellant's current enclosed bed system needs to be replaced due to the fact that it has been recalled by the FDA.

██████ stated Appellant has requested another type of enclosed bed system, but ██████ believes they can provide components that are more cost effective than the enclosed bed system requested that would meet the Appellant's safety needs that are centered around fall risk with her inability to move coupled with her seizure disorder. ██████ noted Appellant had no volitional movement, but could provide approximately ██████ assistance to stand and pivot to move from a chair to her bed, etc. He noted Appellant uses a wheelchair, she has her current enclosed bed, and they have used a lift to move her around. ██████ noted there were also some fragility issues relating to her scoliosis and the Appellant's other physical disabilities.

██████ provided credible testimony that in his professional opinion there were two solutions that would be more cost effective and that would meet the Appellant's current needs. He stated that ██████ would be open to considering the various options that would be available for meeting the Appellant's needs. ██████ noted Appellant identified an enclosed bed system with a ██████ inch high enclosure to meet the Appellant's fall risk; and, with electrical controls to change the positioning of the bed, and to lower it to the floor level to allow Appellant to pivot transfer.

██████ stated in his opinion a standard hospital bed with manual adjustments and adequate pad supports would be sufficient to meet the Appellant's needs. ██████ indicated the Appellant was not able to work the electrical controls and such controls are only provided to beneficiaries who can work the controls themselves, and further

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that the caretakers the Appellant is dependent on would be able to operate manual controls to change the positioning of the Appellant's bed. This would allow for the adjustments needed for hygiene purposes and her G-tube management. Finally, [REDACTED] stated it was not necessary to have a bed that would lower enough for the Appellant to do a pivot transfer. Appellant could be safely gotten out of her bed, possibly using a lift, and she could be allowed to practice such pivot transfers as part of her daily physical therapy routine from a chair or another similar level surface.

In the alternative, [REDACTED] indicated if the Appellant were able to get up on her knees, the [REDACTED] inch high enclosure on the requested bed system would not provide any greater protection than a hospital bed. Therefore, floor level bedding would be recommended that can allow for raising and lowering the back or the foot of the bed, along with pillow wedges to provide elevation of the head of the bed or pillow wedges for the feet to allow for position changes for the Appellant. [REDACTED] stated floor mats and a bed alarm would provide sufficient safety measures to protect the Appellant from injury if she were to fall out of a floor level bed. This along with the use a lift to get the Appellant out of the bed to a changing table, to her wheelchair, or to any other place in order to address her hygiene, feeding or changing needs, would be sufficient to meet the Appellant's needs. [REDACTED] concluded by stating that enclosed bed systems are only provided when they are the only alternative that will meet the beneficiary's need. [REDACTED] stated that in his professional opinion there are more cost effective alternatives available for the Appellant and they cannot authorize the enclosed bed system requested just because it might be more convenient for the Appellant's caregivers who are expected to be available [REDACTED] hours a day to meet the Appellant's care needs.

Appellant bears the burden of proving by a preponderance of the evidence that [REDACTED] erred in denying her request based upon the information that was submitted to it in connection with the prior authorization request for the enclosed bed system. Here, Appellant has failed to meet that burden of proof.

The Appellant's two caregivers testified during the hearing concerning the Appellant's care needs. [REDACTED] indicated she has cared for the Appellant for the past [REDACTED] years. She also had cared for her own daughter with Rett's Syndrome who had a hospital bed and she indicated she did not believe the Appellant could not be left alone for [REDACTED] minutes in such a bed without someone being right with her because the Appellant would try to crawl out of the bed. [REDACTED] indicated the Appellant would have safety concerns when she would have seizures possibly flailing around and injuring herself.

[REDACTED] indicated the Appellant's current bed has been a wonderful bed for the Appellant but has been pulled off the market by the FDA. [REDACTED] indicated the requested bed would allow the Appellant to get in and out of the bed (presumably with assistance through a pivot transfer). She noted due to her condition the Appellant will

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receive physical therapy while in her bed as it is not comfortable to do the therapy on the floor. ██████████ felt a floor level bed would make Appellant susceptible to drafts; it would not put her at eye level for her caregivers, and could make positioning or lifting the Appellant more difficult. She also said it would make changing her diaper more difficult and she would have to step down as her caregiver. ██████████ indicated she felt that it wouldn't be possible to keep the Appellant on a floor level bed.

In addition to the testimony presented by the Appellant's witnesses at the hearing, Appellant's father submitted additional materials on ██████████ at the time he filed the Appellant's request for hearing. Appellant was also permitted to submit additional materials at the time of the hearing, and since the Respondent was not physically present for the hearing and had no opportunity to review the additional materials submitted on the day of the hearing, the Respondent and the Appellant were both given an opportunity to submit written responses to the evidence presented at the hearing.

The undersigned administrative law judge notes, as correctly pointed out by the Respondent's Attorney, that the denial on ██████████ of the enclosed bed system requested by the Appellant, is the subject of this appeal. The MPH in making its decision to approve or reject the requested enclosed bed system was limited to the information submitted by the provider at the time it submitted the request for prior approval, and in this case, the additional information submitted at the time of the Level 1 Review. Unfortunately, the additional information submitted after ██████████ was not available to the MPH when they issued their denial on ██████████. Furthermore, the undersigned can only consider whether the MPH's denial on ██████████ was proper based on the information submitted at the time of the request for prior approval was submitted and the addendum submitted by the Appellant's physical therapist on ██████████.

The MPH, and likewise the undersigned administrative law judge are bound by the policies set forth in the Medicaid Provider Manual. The preponderance of the evidence in this case shows that while the enclosed bed system requested by the Appellant would certainly meet her needs, as per policy, the Appellant has failed to establish by a preponderance of the evidence that there are no economic alternatives which adequately meet the Appellant's needs. Also there has not been a showing that other products or safety methods have already been tried without success. Accordingly, the Appellant has failed to demonstrate that the requested enclosed bed system is medically and functionally necessary to meet Appellant's needs.

As noted by Respondent's witness, the MPH is prepared to work with the Appellant and her representative to identify an appropriate bed system that is medically and functionally necessary to meet Appellant's needs.

[REDACTED]

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DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that [REDACTED] properly denied Appellant's request for an enclosed bed system.

IT IS THEREFORE ORDERED that:

The Medicaid Health Plan'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 60 days of the mailing date of the Decision and Order or, if a timely request for rehearing was made, within 60 days of the mailing date of the rehearing decision.