

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. 2013-69749 CL
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 a hearing.

After due notice, a hearing was held on ██████████. ██████████, son, appeared on 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 incontinent wipes?

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 an ██████ year-old Medicaid beneficiary, born ██████████, who is wheelchair bound and suffers from both bowel and bladder incontinence. (Exhibit A, p 7)
2. On ██████████, ██████████, the Department's contractor for the Diaper and Incontinent Supplies Program, conducted a telephone nursing assessment with Appellant's son, who requested additional incontinent wipes for Appellant. ██████████'s notes indicate it was reported that Appellant is not changed when outside the home. (Exhibit A, pp 7-9)
3. On ██████████, the Department sent Appellant an Adequate Action Notice stating that additional boxes of wipes would not be authorized because the information provided did not support coverage of this service. (Exhibit A, p 6)

4. On [REDACTED], a Request for Hearing was 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 Department policy regarding coverage of incontinence products, including pull-on briefs, is addressed in the MDCH Medicaid Provider Manual (MPM):

2.19 Incontinent Supplies

Definition

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
October 1, 2013, pp 42-43*

The Department's witness testified that under Department policy, Appellant did not meet the criteria for incontinent wipes based on the information reported during the [REDACTED] telephone nursing assessment. She explained that the Department's policy only allows for coverage of incontinent wipes when necessary to maintain cleanliness outside of the home. The information provided by Appellant's son indicated that Appellant is not changed outside the home. The Department's witness provided examples of when wipes would be necessary to maintain cleanliness outside the home, such as attending an adult day care program or when out of the home for medical appointments. The Department denied Appellant's request for incontinent wipes based on provided information; specifically that she is not changed when outside the home.

Appellant's son testified that Appellant's new caregiver is not going to allow Appellant to sit around inside all day and she will be taking her out to visit family and get her involved in senior activities. Appellant's son indicated that Appellant will then need to be changed outside of the home. Appellant's son admitted, however, that the information he provided during the telephone screening was accurate when the screening was completed.

The Department based its decision on the information provided by Appellant's son during the [REDACTED] telephone screening. That information did not indicate that Appellant needed to be changed outside of the home and, based on existing Medicaid policy; wipes are only covered to maintain cleanliness outside of the home. Accordingly, the Department's denial must be upheld based on the information it had when it made its decision. If that information has since changed, Appellant can always submit a new request for wipes with new information.

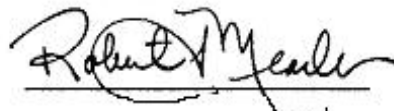
[REDACTED]
Docket No. 2013-69749 CL
Decision and Order

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 incontinent wipes was in accordance with Department policy.

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 22, 2013

Date Mailed: November 22, 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.