STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARINGS SYSTEM
FOR THE DEPARTMENT OF COMMUNITY HEALTH
P.O. Box 30763, Lansing, MI 48909
Phone: (517) 335-2484; Fax: (517) 373-4147

IN THE MATTER OF:

[redacted]

Docket No. 14-010990 PA
Case No. [redacted]

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 [redacted]. [redacted], the Appellant's Daughter, appeared and offered testimony on the Appellant's behalf. [redacted], Appeals Review Officer, represented the Department. [redacted], RN, Medicaid Utilization Analyst, appeared as a witness for the Department.

ISSUE

Did the Department properly deny the Appellant's prior authorization request for a wearable cardioverter defibrillator?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. As of [redacted], the Appellant was a [redacted] year old, female Medicaid beneficiary. (Exhibit A, p. 26)

2. In [redacted], the Appellant was provided with a wearable cardioverter defibrillator. (Exhibit A, p. 17; Testimony)

3. In [redacted], the Appellant requested prior authorization for the wearable cardioverter defibrillator. (Testimony)

4. On [redacted], the Department requested additional information or process the Appellant's prior authorization request. (Exhibit A, pp. 13, 14; Testimony)

5. On [redacted], the Appellant submitted a second prior approval request for a wearable cardioverter defibrillator. (Exhibit A, p. 10; Testimony)

6. The [redacted], prior approval request included patient compliance reports. The reports indicated monthly compliance usage rates of 78% from [redacted] through [redacted] and 70% from [redacted] through [redacted]. (Exhibit A, pp. 31, 32; Testimony)

7. On [redacted], the Department sent the Appellant a notice of denial. The notice indicated the Appellant's prior approval request was denied as the Appellant's monthly wear time was less than 95%. (Exhibit A, pp. 34, 35; Testimony)

8. On [redacted], the Michigan Administrative Hearing System received the Appellant's hearing request. (Exhibit A, pp. 4-6)

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 Michigan Department of Community Health (MDCH) Medicaid Provider Manual states:

> **1.7 PRIOR AUTHORIZATION**
> Prior authorization (PA) is required for certain items before the item is provided to the beneficiary or, in the case of custom-fabricated DME or prosthetic/orthotic appliances, before the item is ordered. To determine if a specific service requires PA, refer to the Coverage Conditions and Requirements Section of this chapter and/or the MDCH Medical Supplier/DME/Prosthetics and Orthotics Database on the MDCH website.
>
> PA will be required in the following situations:
>
> - Services that exceed quantity/frequency limits or established fee screens.
> - Medical need for an item beyond MDCH's Standards of Coverage.
> - Use of a Not Otherwise Classified (NOC) code.
> - More costly service for which a less costly alternative may exist.
> - Procedures indicating PA is required as noted on the MDCH Medical Supplier/DME/Prosthetics and Orthotics Database.
>
> ***
>
> **1.7.D. RETROACTIVE PRIOR AUTHORIZATION**
>
> Services provided before PA is requested will not be covered unless the beneficiary was not eligible on the DOS and the eligibility was made retroactive. If MDCH's record does not show

that retroactive eligibility was provided, then the request for retroactive PA will be denied.

* * *

1.10 NONCOVERED ITEMS

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

- Adaptive equipment (e.g., rocker knife, swivel spoon, etc.)
- Air conditioner
- Air purifier
- Devices used for play, pre-mobility development, or exercise are not considered pediatric mobility devices for the purpose of reimbursement and are not covered (e.g., jet mobile, ready racer, creepster crawler)
- Enteral formula to accommodate psychological or behavioral conditions, food preferences, allergies, loss of appetite, or noncompliance with a specialized diet
- Environmental Control Units
- Equipment not used or not used properly by the beneficiary
- Equipment for social or recreational purposes
- Exam tables/massage tables
- Exercise equipment (e.g., tricycles, exercise bikes, weights, mat/mat tables, etc.)
- Generators
- Hand/body wash
- Heating pads
- Home modifications
- Hot tubs
- House/room humidifier
- Ice packs
- Items for a beneficiary who is non-compliant with a physician's plan of care (or) items ordered for the purpose of solving problems related to noncompliance (e.g., insulin pump)
- Items used solely for the purpose of restraining the beneficiary for behavioral or other reasons
- Lift chairs, reclining chairs, vibrating chairs
- More than one pair of shoes on the same date of service
- New equipment when current equipment can be modified to accommodate growth
- Nutritional formula representing only a liquid form of food
- Nutritional puddings/bars
- Over-the-counter shoe inserts

- Power tilt-in-space or reclining wheelchairs for a long-term care resident because there is limited staffing
- Pressure gradient garments for maternity-related edema
- Prosthetic appliances for a beneficiary with a potential functional level of K0
- Regular or dietetic foods (e.g., Slimfast, Carnation instant breakfast, etc.)
- Room dehumidifiers
- School Items (e.g., computers, writing aids, book holder, mouse emulator, etc.)
- Second units for school use
- Second wheelchair for beneficiary preference or convenience
- Sensory Devices (e.g., games, toys, etc.)
- Sports drinks/juices
- Stair lifts
- Standard infant/toddler formula
- Therapy modalities (bolsters, physio-rolls, therapy balls, jett mobile)
- Thickeners for foods or liquids (e.g., Thick – it)
- Toothettes
- Transcutaneous Nerve Stimulator when prescribed for headaches, visceral abdominal pain, pelvic pain, or temporal mandibular joint (TMJ) pain
- Ultrasonic osteogenesis stimulators
- UV lighting for Seasonal Affective Disorder
- Vacu-brush toothbrushes
- Weight loss or "light" products
- Wheelchair lifts or ramps for home or vehicle (all types)
- Wheelchair accessories (e.g., horns, lights, bags, special colors, etc.)
- Wigs for hair loss
- Peri-wash
- Portable oxygen, when oxygen is ordered to be used at night only

MDCH Medicaid Provider Manual,
Medical Supplier Section
July 1, 2012, pages 8, 10 and 17-18
(Underline added by ALJ)

The Medicaid Utilization Analyst testified the Appellants prior approval request was denied as the Appellant was not wearing the device enough to satisfy the 95% wear compliance rate. The Department submitted compliance reports that showed the Appellant's prior usage fell well below the required percentage (70% and 78%).

The Appellant's Representative testified the Appellant wore the device less than the required amount of time due to a rash that developed from continued use as well as the Appellants usage of a massage device.

The policy provided and reviewed does not make an exception for non-usage due to the development of a rash or the use of a massage device. It specifically requires that the device be worn 95% of the time.

The Medicaid Provider Manual Policy specifies that for a wearable cardioverter defibrillator to be covered, compliance reports must show a 95% wear rate. In this case, the compliance reports show actual usage well below 95% as such, the Departments determination to deny coverage for the wearable cardioverter defibrillator 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 wearable cardioverter defibrillator based on the available information.

IT IS THEREFORE ORDERED that:

The Department's decision is AFFIRMED.

\s_____
Corey Arendt
Administrative Law Judge
for Nick Lyon, Director
Michigan Department of Community Health

Date Signed: [redacted]

Date Mailed: [redacted]

CAA[redacted]

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.