

**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:

██████████

Appellant

Docket No. 2014-17228 CL

██████████

██████████

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 ██████████, Appellant's mother, appeared on Appellant's behalf. ██████████, Appeals Review Officer, represented the Department. Her witness was ██████████, Contract Manager, MDCH.

ISSUE

Did the Department properly deny Appellant's request for pull-on briefs?

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 male Medicaid beneficiary, born ██████████. (Exhibit A and testimony).
2. Appellant is diagnosed with arthrogyposis and is tracheostomy dependent. Appellant is diapered ██████ of the time. (Exhibit A, pp. 7, 8, 9).
3. In ██████████, pull-on briefs were approved for Appellant. Appellant's mother was advised that Appellant would need to show demonstrative progress in initiating toileting for the pull-on briefs to be continued. (Exhibit A, pp. 12-13 and testimony).
4. On ██████████ and again on ██████████, Appellant's school nurse submitted a letter indicating that Appellant does request to use the restroom when he needs to have a bowel movement; otherwise, he is taken to the restroom at the same time each day. Appellant's school nurse indicated that Appellant's pull-on briefs are wet ██████ of the time when he is taken to the restroom. (Exhibit A, pp. 7-8 and testimony).

5. On ██████████, Appellant's case was reviewed by ██████████ who determined that Appellant was no longer eligible for pull-on briefs because the letters from the school nurse indicated that Appellant had shown no definitive progress in a toileting program. ██████████ noted that Appellant is still using the same number of pull-on briefs since the initial assessment and Appellant is still wet when taken to the bathroom at least ██████████ of the time. ██████████ noted that Medicaid policy requires definitive progress with toilet training for continuation of eligibility for pull-on briefs. (Exhibit A, p. 6 and testimony).
6. On ██████████, the Department sent Appellant an Adequate Action Notice informing him that pull-on briefs were no longer authorized. The Notice contained Appellant's rights to a hearing. (Exhibit A, p. 5).
7. On ██████████, the instant appeal was received by the Michigan Administrative Hearing System. (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.

The Department policy for pull-on brief coverage is addressed in the Medicaid Provider Manual:

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 (Not Applicable to CSHCS Only Beneficiaries)

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. (Emphasis supplied)

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. 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. [Medicaid Provider Manual, Medical Supplier, § 2.19 Incontinent Supplies, October 1, 2013, page 42-43].

The Department witness testified that the Appellant did not demonstrate definitive progress in a bowel-bladder program as of the date of assessment. This conclusion

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was supported by the record. The Department witness explained that pull-ons are to be utilized as a short term use product and that on his reassessment the Appellant failed to demonstrate definitive progress in his bowel-bladder program.

The letter received from the Appellant's school nurse in ██████████ confirmed that the Appellant had minimal results with a toilet training program.

Appellant's mother testified the Appellant has done a little better since he went back to diapers. She stated the use of the pull-ons is more of a dignity thing for the Appellant. Appellant's mother testified the Appellant cries when she has to put diapers on him at night, but he will wear them. Appellant's mother indicated the Appellant was down to using only ██████ pull-ons per day.

The evidence provided by the Department established that the Appellant had made no documented progress in his home and school-based toilet training program as of the date of review, ██████████. Appellant's representative failed to provide any documentation that the Appellant had made definitive improvement [as required under the policy in the Medicaid Provider Manual] concerning his toileting program as of the ██████████ review.

Therefore, the Department's denial of coverage for pull-on briefs was properly reached and 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 coverage of pull-on briefs.

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: ██████████

Date Mailed: ██████████

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WDB/db

cc:



***** 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.