

**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. 2014-17508 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.*, and upon a Request for a Hearing filed on behalf of the minor Appellant.

After due notice, a hearing was held on ██████████, Appellant's Authorized Representative, appeared and testified on Appellant's behalf. ██████████, daughter/witness appeared and testified on Appellant's behalf. ██████████, Appeals Review Officer, represented the Department of Community Health. ██████████, Medicaid Utilization Analyst, appeared as a witness for the Department.

ISSUE

Did the Department properly deny Appellant's prior authorization request to receive a power tilt-in-space and recline function on her wheelchair?

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 a ██████ year old female Medicaid beneficiary born on ██████████.
2. Appellant has a diagnosis of Amyotrophic Lateral Sclerosis. (Respondent's Exhibit A, page 32).
3. According to a Certification form Appellant's medical doctor, dated ██████████ Appellant's disease has progressed to the point where she is near total tetraplegia with the exception of some residual right finger movement; Appellant is dependent on a power

wheelchair for independent mobility in her home and to complete pressure relief and position changes throughout the day; with proper support, Appellant is able to move her head side to side enough to accurately access switches and safely operate her power wheelchair and seating system; Appellant has AM and PM caregiver assistance however she is home alone during the day and will need to be able to complete her pressure relief independently during this time; Appellant has had a stage IV sacral wound for the past couple of years and requires optimal pressure relief and seating pressure distribution to prevent this wound from getting worse; Appellant has venous stasis due to her severe lower extremity weakness and immobility which puts her at greater risk for DVT's if she is unable to alter her lower extremity position throughout the day to encourage venous return; and it is medically necessary for Appellant to utilize both power tilt and recline in order to optimize her pressure relief and positioning while she is in the wheelchair because without both of these components, she will be compromised medically and will be at a higher risk for complications which could lead to costly hospital stays and/or surgical intervention. (Respondent's Exhibit A, page 32).

4. Appellant was approved for a power wheelchair; however, on ██████████ the Department sent Appellant a Notification of Denial, stating that Appellant was denied a power wheel chair with a Tru-Balance power tilt, Pride Mobility articulating foot platform, and foot platform connector; medical necessity for both tilt and recline is not substantiated; and Appellant's provider may resubmit on a separate prior authorization request for either a tilt or recline for a most cost effective alternative. (Respondent's Exhibit A, page 5).
5. On ██████████, the Michigan Administrative Hearing System (MAHS) received Appellant's hearing request, protesting the denial of a power wheelchair with both the power tilt and recline feature.

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.

Medicaid covered benefits are addressed for practitioners and beneficiaries in the Medicaid Provider Manual (MPM). With respect to durable medical equipment, the MPM generally provides 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.

* * *

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.

*MPM, October 1, 2013 version
Medical Supplier Chapter*

Additionally, regarding the type of equipment requested in this case, the MPM specifically provides:

2.47 WHEELCHAIRS, PEDIATRIC MOBILITY AND POSITIONING MEDICAL DEVICES, AND SEATING SYSTEMS

2.47.A. DEFINITIONS

Wheelchair

A wheelchair has special construction consisting of a frame and wheels with many different options and includes, but is not limited to, standard, light-weight, high-strength, powered, etc.

Pediatric Mobility Product

Pediatric mobility products are pediatric-sized mobility and positioning medical devices (as defined by PDAC) that have a special light-weight construction consisting of a frame and wheels/base with many different options. Pediatric mobility devices include pediatric wheelchairs, transport chairs, hi/low chairs with outdoor/indoor bases, and standing systems designed specifically for children with special needs. These products must meet the definition of Durable Medical Equipment (DME) (refer to the Program Overview section of this chapter)

and are not available as a commercial product or for which a commercial product can be used as an economic alternative.

Licensed/Certified Medical Professional

A licensed/certified medical professional is defined as an occupational or physical therapist or a rehabilitation RN who has at least two years' experience in rehabilitation seating and is not an employee of the medical supplier.

Medicaid policy requires that assessments must be performed by a licensed/certified medical professional. A physical therapy assistant (PTA) or a certified occupational therapy assistant (COTA) may not perform any part of the assessment or evaluation and may not complete or sign the MSA-1656.

Pediatric Subspecialist

A pediatric subspecialist is a physician who is board-certified in a pediatric subspecialty (such as a physiatrist, neurologist, or orthopedist). A pediatrician is not considered a pediatric subspecialist relative to this policy.

Institutional Residential Setting

An institutional residential setting refers to a nursing facility, hospital long-term care unit, or county medical care facility.

Community Residential Setting

A community residential setting is defined as a non-institutional setting in the community, i.e., beneficiary's own home, Adult Foster Care (AFC), Assisted Living or Group Home.

2.48.B. STANDARDS OF COVERAGE

Power Wheelchair or Power-Operated Vehicle in Both Community, Residential and Institutional Residential Settings

May be covered if the beneficiary meets **all** of the following:

- Lacks ability to propel a manual wheelchair, or has a medical condition that would be compromised by propelling a manual wheelchair, for at least 60 feet over hard, smooth, or carpeted surfaces with or without rest intervals.
- Requires use of a wheelchair for at least four hours throughout the day.
- Is able to safely operate, control and maneuver the wheelchair in their environmental setting, including through doorways and over thresholds up to 1½", as appropriate.
- Has a cognitive, functional level that permits safe operation of a power mobility device with or without training.
- Has visual acuity that permits safe operation of a power mobility device.
- For a three-wheeled power mobility device, has sufficient trunk control and balance.

* * *

Manual or Power Recline Feature

May be covered when needed for relief of pressure on the seat and/or back, and one of the following applies:

- History of skin breakdown or current indication of imminent skin breakdown that cannot be controlled (or has not in the past) by less costly modalities (such as pressure relief cushions or manual pressure relief techniques).
- Has ability to tolerate a 90-135 degree range of motion at the hip, needed for reclining without triggering excessive abnormal tone.
- Is unable to tolerate an upright position in a wheelchair for long periods of time due to fatigue, shortness of breath, increased tone, or discomfort related to pressure that cannot be manually relieved.

A low shear recline back is covered when the beneficiary does not have the ability to reposition themselves in the wheelchair following reclining and the shearing would result in skin breakdown.

Manual Tilt-in-Space or Recline Function in Community Residential Setting

Manual tilt-in-space function allows the seat and back of the wheelchair to move as a unit, such that the angle of the back to the floor changes from approximately 90 degrees to 45 degrees or less. This change in position does not affect the hip-to-knee angle. The seat may be tilted manually.

The tilt-in-space function for a wheelchair may be covered if one or more of the following apply:

- History of skin breakdown or current indication of imminent skin breakdown that cannot be controlled (or has not in the past) by less costly modalities (such as pressure relief cushions or manual pressure relief techniques).
- Excessive extensor or flexor muscle tone that is exacerbated by change in hip angle and makes positioning in any upright chair ineffective. State reason why changing angles of position is medically necessary.
- Very low muscle tone that cannot maintain upright positioning against gravity, causing spinal anomalies.
- Beneficiary has knee contractures and a custom-molded seating system.

*Coverage of both a **manual tilt-in-space and recline function** for a wheelchair requires medical need (such as high probability of the development of hip contractures) if only a tilt-in-space without recline is used. Also, there is a medical contraindication to using recline-only without the tilt-in-space function.*

*MPM, October 1, 2013 version
Medical Supplier Chapter*

Power Tilt-in-Space or Recline Function in Both Community Residential and Institutional Residential Settings

Power tilt-in-space or recline function may be covered if **all** of the following exist:

An existing medical condition results in the inability to reposition self without the use of a power tilt **or** recline mechanism.

The frequency of repositioning is clinically indicated and is an integral part of the nursing facility plan of care.

Beneficiary requires assistance to use a manual tilt-in-space or recline system, and there are regular periods of time that the beneficiary is without assistance.

Beneficiary requires assistance to use a manual tilt-in-space or recline system, and is able to independently care for himself when provided a power tilt-in-space **or** recline modification.

For CSHCS pediatric beneficiaries, a written order from an appropriate board-certified pediatric subspecialist or an Office of Medical Affairs (OMA)-approved physician is required. MDCH also reserves the right to require a written order from an appropriate board-certified pediatric subspecialist for Medicaid beneficiaries.

*MPM, October 1, 2013 version
Medical Supplier Chapter*

In this case, the Department denied the Appellant's request for both a power tilt-in-space **and** recline function in her power wheelchair. Appellant was approved for a power wheelchair; however, the Department denied the request on the basis that medical necessity for both tilt and recline was not substantiated. The Department notified Appellant that her provider may resubmit on a separate prior authorization a request for either a tilt or recline for the most cost effective alternative.

Appellant failed to establish by a preponderance of the evidence that the Department erred in denying her request. The wheelchair policy cited above states that a Medicaid beneficiary may be approved for a power tilt-in-space **or** recline function in a wheelchair, not a power tilt-in-space **and** recline function. Additionally, one of the criteria for approval for either the power tilt-in-space or recline function is that the beneficiary must require assistance to use a manual tilt-in-space or recline system, **and** the beneficiary is able to independently care

for himself when provided a power tilt-in-space **or** recline modification. Appellant failed to establish that she meets this criteria. According to a Certification from Appellant's medical doctor, dated [REDACTED] [REDACTED], Appellant's disease has progressed to the point where she is near total tetraplegia with the exception of some residual right finger movement.

Based on the evidence on the record and the policy, Appellant failed to meet her burden of proving by the preponderance of the evidence that the Department erred in denying her request for both a power tilt-in-space **and** recline function in her power wheelchair. Therefore, the Department's decision must be upheld.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department properly denied Appellant's request for a power tilt-in-space **and** recline function in her power wheelchair.

IT IS THEREFORE ORDERED THAT:

The Department's decision is **AFFIRMED**.

/s/

Marya A. Nelson-Davis
Administrative Law Judge
for James K. Haveman, Director
Michigan Department of Community Health

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

MAND/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 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.