

**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. 2014-19216 PA

██████████

██████████

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 hearing.

After due notice, a hearing was held on ██████████ ██████████, Appellant's mother, appeared and testified on Appellant's behalf. ██████████ Appeals Review Officer, represented the Department. ██████████ ██████████, Medicaid Utilization Analyst, appeared as a witness for the Department.

ISSUE

Did the Department properly deny the Appellant's prior authorization request for a Freedom SP3 manual wheelchair and accessories?

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 Medicaid beneficiary, born ██████████, who has been diagnosed with Propionic Acidosis and Muscular Dystrophy and lack of coordination. (Exhibit A, pp. 17-18 and testimony).
2. On or about ██████████ the Department's consulting physician reviewed a prior authorization (PA) request from Appellant for a Freedom SP3 manual wheelchair and accessories and the request was denied as there are economic alternatives available. (Exhibit A, pp. 13-15, 17-40 and testimony).
3. On ██████████ the Department issued a Notification of Denial to Appellant and the medical supplier stating that the PA request was denied because there are economic alternatives available. The notice indicated that Appellant could resubmit for an economical alternative. (Exhibit A, pp. 13-14, 44-45).

4. On D ██████████, the Michigan Administrative Hearing System received the hearing request filed on Appellant's behalf. (Exhibit A, pp. 4-12)

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 Medicaid Provider Manual provides, in pertinent part, 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.

* * *

1.8.A. STANDARD EQUIPMENT AND CUSTOM-FABRICATED SEATING

* * *

MDCH will only consider coverage of custom-fabricated seating when a standard item will not meet the medical or functional needs of the beneficiary

* * *

1.10 NONCOVERED ITEMS [CHANGE MADE 4/1/13]

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

* * *

- Custom seating for secondary and/or transport chairs

* * *

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

* * *

2.48.B. STANDARDS OF COVERAGE [RE-NUMBERED 7/1/13]

Manual Wheelchair in Community Residential Setting

May be covered if **all** of the following are met:

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- Has a diagnosis/medical condition that indicates a lack of functional ambulatory status and ambulates less than 150 feet within one minute with or without an assistive medical device.
- Must be able to regularly use the wheelchair throughout the day.
- Must be able to be positioned in the chair safely and without aggravating any medical condition or causing injury.
- Purchase of a wheelchair is required for long-term use (greater than 10 months).
- Must be able to use the wheelchair in the home environment (e.g., wheelchair must be able to fit through doorways and cross thresholds)
- Must identify other economic alternatives considered.
- Must have a method to propel wheelchair, which may include:
 - Ability to self-propel for at least 60 feet over hard, smooth, or carpeted surfaces.
 - The beneficiary has a willing and able caregiver to push the chair if needed.

In addition:

A **standard hemi-wheelchair** may be covered when a lower seat to the floor is required.

A **standard light-weight wheelchair** may be covered when the beneficiary is unable to propel a standard wheelchair due to decreased upper extremity strength or secondary to a medical condition that affects endurance.

A **heavy-duty standard wheelchair** may be covered if the beneficiary's weight is more than 250 pounds but does not exceed 300 pounds. (Include patient's weight in the beneficiary's file.)

An **extra heavy-duty standard wheelchair** is covered if the beneficiary's weight exceeds 300 pounds. (Include patient's weight in the beneficiary's file.)

A **high-strength light-weight or ultra-light standard wheelchair** may be covered when required for a specific functional need.

A **back-up or secondary standard manual wheelchair** may be considered when:

- The beneficiary is primarily a power wheelchair user but needs a manual wheelchair to have access to the community or independent living.
- The beneficiary's medical condition requires a power wheelchair that cannot accommodate public transportation and, therefore, requires another transport device.

* * *

Manual Wheelchair with Custom-Fabricated Seating System in both Community Residential and Institutional Residential Settings

May be covered if **all** of the following are met, in addition to the Standards of Coverage listed under Manual Wheelchair in Community Residential Setting:

- Medical documentation provides a clinical assessment of the specific functional/clinical need for a custom-fabricated seating system. Documentation must specifically rule out other standard seating systems. The seating system must also meet standards of coverage.
- Must accommodate growth and adjustments for custom-fabricated seating systems a minimum of 3" in depth and 2" in width.
- Is an integral part of the care regimen in the community residential setting or the daily nursing plan of care in an institutional residential setting.

* * *

Custom-Fabricated Seating Systems

May be covered when required to assure safe mobility and functional positioning when the beneficiary has postural deformities, contractions, tonal abnormalities, functional impairments, muscle weakness, pressure points, and seating balance difficulties. May be covered if all of the following are met:

- Two or more of the above clinical indications are documented in the medical record and in the mobility assessment, and the severity of

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the clinical indications cannot be accommodated by a standard seating system.

- Must accommodate growth and adjustments a minimum of 3" in depth and 2" in width.
- Must document the reason for the selection when the system cannot be used in more than one mobility device.
- Is the most economical alternative available to meet the beneficiary's mobility needs.

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. [*Medicaid Provider Manual, Medical Supplier*, October 1, 2013, pp. 1, 3, 4-5, 13,17-18, 83, 84, 85, 87 emphasis added].

In the present case, the Department determined that the PA request should be denied because there are economical alternatives available to the Freedom SP3 manual wheelchair and accessories requested by the Appellant and the information submitted along with the PA request does not demonstrate that these more economical alternatives were considered. The Department recognized that the Appellant does qualify for a new wheelchair, and in their denial letter dated ██████████ they advised the Appellant's parents that they should resubmit for approval of an economical alternative. (Exhibit A, pp. 13-14). In the letter accompanying her request for hearing dated ██████████, Appellant's mother indicated that Appellant needs a new wheelchair because the custom stroller now being used is too small for him. Appellant's mother also indicated more economical wheelchairs do not allow for transit options. (Exhibit A, pp. 4-12)

The Medicaid Utilization Analyst testified that they received the Appellant's request for a wheelchair with custom seating, positioning components, and a transit option on ██████████. The Analyst stated the PA request was denied because there are economic alternatives available in a letter dated ██████████. The Analyst advised that the Appellant's parents were advised that they could resubmit for an economical alternative.

The Medicaid Utilization Analyst stated the Department (Medicaid) is only able to cover the most economical or cost effective equipment that meets the Appellant's medical needs. The Analyst referred to the sections of policy quoted above that require coverage for the most economical alternative available. The analyst further noted the policy quoted above requires that when a PA request is submitted the information must

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identify other economical alternatives that were considered, which was not done in this case.

The Analyst stated the Appellant does meet the standards for a wheelchair, but the issue in this case is the type of wheelchair for which he meets the standards of coverage. The Analyst referenced other types of wheelchairs that the Appellant may qualify for, that would be more economical alternatives than the Freedom SP3 manual wheelchair and accessories requested for the Appellant. (See Exhibit A, pp. 67, 74-82). The Medicaid Utilization Analyst testified that the wheelchair requested is an ultra-light wheelchair, which is for someone who self-propels their wheelchair, but the Appellant does not self-propel his wheelchair, so he would qualify for a wheelchair that would cost less than the ultra-light wheelchair requested. (See Exhibit A, pp. 59).

The Analyst also ruled out the custom seating options requested, because the policy quoted above requires specific medical documentation that the custom seating is needed, and the medical documentation submitted with the PA request did not show that the severity of the Appellant's clinical indications could not be accommodated by a standard seating system. The information did show the Appellant had some curvature of the spine that might qualify for some type of seating system, but it did not indicate the severity of the curvature. The information also showed Appellant could sit without support, crawl short distances, and he could take 3 to 5 steps without qualifying if this was with or without a walker. (See Exhibit A, pp. 20, 25, 31, 52, 60, 62). The Analyst stated the Department had the PA request reviewed by ██████████ an M.D. in Physical Medicine and Rehabilitation, and Dr. Donovan concurred with the denial stating there are economical alternatives available to the wheelchair requested by the Appellant that would meet the Appellant's medical needs. (See Exhibit 43).

The Medicaid Utilization Analyst also testified that Medicaid will not cover the transport options because they are not considered to be medical equipment, and cannot be approved in addition to an approved wheelchair. The policy quoted above from the Medicaid Provider Manual supports the Analyst's position stating that Medicaid covers such durable medical equipment for use in the beneficiary's place of residence. (Exhibit A, p. 47).

Appellant's mother testified that the Appellant's current wheelchair is too small for him, it is falling apart, and is no longer safe. Appellant's mother said the Freedom SP3 was chosen as the wheelchair that would best meet his needs. She said it is not a top of the line model. Appellant's mother testified she took Appellant to the physical therapist for a new seating evaluation in ██████████ and it was determined that the Freedom SP3 was the best economical and appropriate choice for the Appellant.

Appellant's mother testified the Appellant had an x-ray on ██████████ that showed his spinal curvature at an eleven. Appellant's mother suggested the Appellant would need proper seating and alignment to prevent his curvature from becoming worse. She stated she contacted the Medical Supply after the denial for a more

economical alternative and she indicated the models used as an example by the Department as being more economical wheelchairs, do not have a transit option and are not designed to grow with the Appellant unless additional parts are ordered along with the wheelchair.

An administrative law judge does not act as an evaluator of newly submitted information to determine whether the requested medical equipment is medically necessary, or the most economical alternative available to meet an individual's needs. Rather the judge must review the information submitted along with the prior authorization request, and determine if the Department's denial is supported by the information submitted and a proper application of the relevant policy from the Medicaid Provider Manual.

Based on the documentation submitted with the Appellant's prior authorization request in this case, Appellant did not meet the Medicaid standards of coverage and documentation requirements to establish medical necessity for the requested wheelchair and accessories. There are more economical alternatives than the Freedom SP3 manual wheelchair and accessories requested by the Appellant that will meet his needs and the documentation submitted with the prior authorization request did not demonstrate that more economical alternatives had been considered by the Appellant. Accordingly, the Department's denial must be upheld.

Appellant's family is encouraged to continue to seek a wheelchair that is more economical than the one requested, given that the Department has indicated they would approve an economical alternative upon a resubmission.

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 Freedom SP3 manual wheelchair and accessories based on the submitted documentation.

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: [REDACTED]

Date Mailed: [REDACTED]

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***** 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.