

**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. 2014-7357 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 Appellants request for a hearing.

After due notice, a hearing was held on ██████████, ██████████. Appellant's father, appeared on Appellant's behalf. ██████████, Appeals Review Officer, represented the Department. His witness was ██████████, Contract Manager, Michigan Department of Community Health (Department).

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 a ██████-year-old Medicaid beneficiary, born ██████████ (Exhibit A, pp. 7-13 and testimony)
2. Appellant has a developmental delay, autistic disorder, epilepsy, and is moderately retarded. (Exhibit A, p. 6 and testimony).
3. On ██████████, the Department's contractor, was unable to complete a ██████ month review regarding Appellant's use of pull-ons. ██████ was unable to process the case because the letter received from the OT was not on letter head and did not contain a hand signature from the OT. (Exhibit A, pp. 19, 32 and testimony).
4. On ██████████, Appellant was sent an Advance Action Notice that effective ██████████ Medicaid coverage for pull-ons would not be authorized. (Exhibit A, p. 16 and testimony).

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5. On [REDACTED], the instant appeal was received by the Michigan Administrative Hearing System. (Exhibit A, p. 3).

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.

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- 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 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. [*Medicaid Provider Manual, Medical Supplier*, § 2.19, October 1, 2013, pp. 42-43].

The Department witness testified that on ██████████ Appellant was sent an Advance Action Notice that effective ██████████ Medicaid coverage for pull-ons would not be authorized. (Exhibit A, p. 16). The reason for the denial was that ██████████, the Department's contractor, was unable to process the case because the letter received from the OT (occupational therapist) was not on letter head and did not contain a hand signature from the OT.

On ██████████ Appellant filed a request for hearing with MAHS. At the hearing, Appellant's father testified that he understood that the denial on ██████████ was based on the fact that proper documentation had not been received to support the request for the incontinent supplies. Appellant's father indicated that there was some question about whether ██████████ was actually a qualified occupational therapist, so after the denial they went ahead and sent in a new letter from her on letter head with her signature. (Exhibit A, p. 29). Appellant's father stated the matter was then sent to ██████████ department for a re-review and the request was denied again on ██████████ for a different reason. (See Exhibit A, p. 17 and testimony).

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Since Appellant's request for hearing was sent in following the initial denial on [REDACTED] for lack of proper documentation, this appeal is limited to whether that initial denial was proper. The testimony and evidence presented by the Department shows that the documentation available at that time was insufficient to allow the Department's contractor proceed with the processing of the Appellant's request for incontinent supplies. Therefore, the Department's denial of coverage for pull-ons was properly reached and must be upheld.

During the hearing, the Department's witness advised the Appellant's father what he could do in order to submit a new request for the incontinent supplies previously requested. It was emphasized that pull-on briefs are covered for beneficiaries age 3 through 20 when there is the presence of a medical condition causing the bowel/bladder incontinence and that the supporting medical records would need to demonstrate this condition to support approval for the requested supplies.

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 for 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: [REDACTED]
Date Mailed: [REDACTED] 3

WDB/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.