STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
P.O. Box 30763, Lansing, MI 48909
Phone: (877)-833-0870; Fax: (517) 373-4147

IN THE MATTER OF:

[redacted],
Appellant
_____/

CASE INFORMATION

Docket No.: 15-007841-PA
Case No.: [redacted]

Appellant:
[redacted]

Respondent:
Department Community Health
[redacted]

HEARING INFORMATION

Hearing Date: [redacted]
Start Time: [redacted]

Location
Telephone Hearing
Department Community Health
320 S. Walnut Street
Lansing, MI 48909

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 [redacted]. [redacted] appeared and offered testimony on his own behalf. [redacted] wife [redacted] appeared as a witness for the Appellant. [redacted] Appeals Review Officer, represented the Department. [redacted], Medicaid Utilization Analyst, appeared as a witness for the Department.

ISSUE

Did the Department properly deny the Appellant's prior authorization (PA) request for a Q6 Edge Power 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 [redacted] Medicaid beneficiary, born [redacted], who has been diagnosed with paraplegia, spinal cord injury and pressure ulcers. Appellant currently resides in a nursing facility. (Exhibit A, p 10; Testimony)

2. On [redacted] a PA was submitted to the Respondent for a Pride Mobility Q6 Edge and accessories. (Exhibit A, p 28; Testimony)

3. On or around [redacted] the Department reviewed the [redacted] PA request from Appellant for the power wheelchair with accessories. The reviewer determined that more information was needed as the PA request did not include a MDS, the MSA 1656 was not signed by the facility director and/or administrator, the documentation provided did not explain how far the beneficiary was able to propel a manual wheelchair and did not identify the mobility device the Appellant was currently using. (Exhibit A, p 28; Testimony)

4. On [redacted] the Department sent the Appellant and Provider a request for additional information. The request for additional information indicated that the resubmission would be considered a new PA request. (Exhibit A, p. 28)

5. On [redacted], the Department received PA request for a Q6 Edge Power Wheelchair and accessories for Appellant. (Exhibit A, pp 10, 29-48; Testimony)

6. On or around [redacted], the Department reviewed the [redacted] PA request from the Appellant. The reviewer determined the Appellant PA needed to be denied as the PA request did not include a MDS, the nursing plan of care did not include a power wheelchair with a power seat function, the PA provided conflicting information regarding the beneficiary's ability to propel a manual wheelchair (unsubstantiated need) and the PA included conflicting goals. (Exhibit A, p 9; Testimony)

7. On [redacted], the Department issued a Notification of Denial to Appellant and the medical supplier stating that the PA request was denied because the [redacted] PA request did not include a MDS, the nursing plan of care did not include a power wheelchair with a power seat function, the PA provided conflicting information regarding the beneficiary's ability to propel a manual wheelchair (unsubstantiated need) and the PA included conflicting goals.. (Exhibit A, pp 8, 9; Testimony)

8. On [redacted], the Michigan Administrative Hearing System received the hearing request filed on the Appellant's behalf. (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 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.

* * *

Durable Medical Equipment (DME)

DME are those items that are Food and Drug Administration (FDA) approved, can stand repeated use, are primarily and customarily used to serve a medical purpose, are not useful to a person in the absence of illness or injury, and can be used in the beneficiary's home. Examples are: hospital beds, wheelchairs, and ventilators. DME is a benefit for beneficiaries when:

- It is medically and functionally necessary to meet the needs of the beneficiary.
- It may prevent frequent hospitalization or institutionalization.
- It is life sustaining.

* * *

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.

* * * *

1.10 NONCOVERED ITEMS

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

Custom seating for secondary and/or transport chairs* * * *

- Power tilt-in-space or reclining wheelchairs for a long-term □

- Items used solely for the purpose of restraining the beneficiary for behavioral or other reasons care resident because there is limited staffing.

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

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2.48.B. STANDARDS OF COVERAGE

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 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.

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.

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.

2.48.C. PRIOR AUTHORIZATION FOR PURCHASE, RENTALS, REPAIRS, AND/OR REPLACEMENT OF

* * * *

Prior Authorization Process for Beneficiaries in the Institutional Residential Setting

Prior authorization is required for Medicaid coverage and separate reimbursement for medically necessary power-operated vehicles and power or manual wheelchairs with custom-fabricated seating systems. The request for a resident assessment must be initiated by the treating physician with the stated medical reason for the referral.

Facility clinicians who are responsible for the overall nursing plan of care and treatment of the resident will prepare and submit prior authorization requests and medical documentation directly to the MDCH Program Review Division.

Refer to the Nursing Facility Coverages chapter for additional information regarding prior authorization of wheelchairs and custom-

fabricated seating systems for beneficiaries in an institutional residential setting.

(Refer to the Prior Authorization Form subsection and the Evaluation and Medical Justification for Complex Seating Systems and Mobility Devices Form subsection of this chapter for additional information.)

MDCH Medicaid Provider Manual
Medical Supplier Section
July 1, 2013, pp 1, 3-5, 17-18, 88, 91

10.8 DURABLE MEDICAL EQUIPMENT

10.8.A. STANDARD EQUIPMENT

* * * *

In addition, nursing services include positioning and body alignment and preventive skin care. The nursing facility is responsible for proper pressure relief and positioning. The use of medical equipment as a substitute for responsible patient care is inappropriate and not covered.

* * * *

10.8.B.1. MEDICAL NECESSITY

A physician's order by itself is not sufficient documentation of medical necessity, even when it is signed by the treating physician. **Clinical documentation from the medical record must support the medical necessity for the request and substantiate the physician's order.** In addition, Medicaid coverage is not based solely on a physician's order; the request must also meet the standards of coverage published by MDCH. (Refer to the Medical Necessity subsection of the Medical Supplier chapter for a complete description of medical necessity requirements.)

The nursing facility's responsibility for each resident's health care needs and other services, including patient care, transfers, safety, skin care, equipment, medical supplies, etc., are described in federal regulations and state licensure requirements. The use of medical equipment as a substitute for responsible patient care is inappropriate and not covered.

Refer to the Medical Supplier chapter for additional information regarding Medicaid definitions and standards of coverage for mobility and custom-fabricated seating systems.

10.8.B.2. NONCOVERED

Power wheelchairs and custom-fabricated seating systems, including add-on components, are not covered outside the facility per diem rate when:

- There is an appropriate economic alternative.
    - **The devices are not related to, or an integral part of, the nursing facility daily plan of care.**
    - The accessory or add-on component is deemed to be standard under the definition of a standard manual wheelchair.
    - The wheelchair is used as a restraint or for the purpose of treating aberrant behaviors.
    - The need for the wheelchair is a substitute for appropriate clinical nursing services, as defined in federal regulations.
    - The wheelchair is inappropriate for the beneficiary's cognitive level or behavioral level.
- The beneficiary is unable to safely operate the wheelchair.
    - **A standard wheelchair meets functional need or outcome as defined in the plan of care.**
    - The device is ordered for nonstandard use (e.g., therapeutic modality or exercise).
    - The device is ordered to increase sitting tolerance that exceeds acceptable medical guidelines for skin care and pressure.

MDCH Medicaid Provider Manual
Nursing Facility Coverages
July 1, 2013, pp 36-38

In the present case, the Department determined that the PA request should be denied because it did not include medical necessity information and the nursing plan of care did not include the use of the power wheel chair and accessories. Additionally, the medical records supplied with the request indicated the Appellant had normal range of motion with his upper extremities and could use a manual wheelchair around the facility without difficulty. (Exhibit A, pp 31, 36)

During the hearing, the Appellant and his wife testified the powered wheelchair was necessary as it would help the Appellant with his mobility within the nursing facility as well as alleviate his pressure sores.

The Appellant however did not explain or identify how the powered wheelchair alleviated his pressure sores differently than a manual wheelchair, and the Appellant's testimony regarding his mobility was different from what was found in his medical records concerning his ability to use the manual wheelchair independently for mobility purposes within the nursing facility.

Based on the documentation submitted, Appellant did not meet the Medicaid standards of coverage and documentation requirements to establish medical necessity for the requested wheel chair and accessories. Appellant did not submit an MDS as requested and the nursing plan of care did not indicate the need for a power wheelchair. Accordingly, the Department's denial 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 Q6 Edge Power Wheelchair and accessories based on the submitted documentation.

IT IS THEREFORE ORDERED that:

The Department's decision is AFFIRMED.

Corey A. Arendt
Administrative Law Judge
for Director, Nick Lyon
Michigan Department of Health and Human Services

[redacted]

Date Singed: [redacted]

Date Mailed: [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.