

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF HEALTH AND HUMAN SERVICES**

P.O. Box 30763, Lansing, MI 48909
(517) 335-2484; Fax: (517) 373-4147

IN THE MATTER OF:

Docket No. 15-012404 PA

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Appellant.

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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 the minor Appellant's behalf.

After due notice, a telephone hearing was held on ██████████. ██████████, Appellant's mother, appeared and testified on Appellant's behalf. ██████████ Appeals Review Officer, represented the Department of Health and Human Services (DHHS or Department). ██████████ Analyst, testified as a witness for the Department.

ISSUE

Did the Department properly deny Appellant's prior authorization request for a 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 Medicaid beneficiary who has been diagnosed with congenital chromosomal disease. (Exhibit A, page 9).
2. On or about ██████████ the Department received a prior authorization request for a Freedom Spectrum wheelchair and accessories for Appellant. (Exhibit A, pages 24-25).
3. In response, the Department sent the request back and asked for additional information. (Exhibit A, page 26).

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4. As part of its request for additional information, the Department asked that the provider to “explain if the beneficiary’s home is accessible and if the family is able and willing to transport the requested wheelchair with custom seating in their private vehicle.” (Exhibit A, page 26).
5. In response, Appellant’s occupational therapist and physical therapist wrote a letter stating in part that:

Home accessible and transportation: The family’s home is accessible to the wheelchair and they have an SUV to transport the wheelchair in as needed.

Exhibit A, page 27

6. On ██████████, the amended request for the Freedom Spectrum wheelchair was approved. (Exhibit A, page 24).
7. The request would not have been approved without the reports that the Appellant and her family could transport the requested wheelchair in their private vehicle. (Testimony of Department’s Analyst).
8. On ██████████, the Department received a prior authorization request for a Convaid Cruiser wheelchair and accessories. (Exhibit A, pages 8-23).
9. Along with the request was a letter from Appellant’s occupational therapist and physical therapist stating in part that:

██████████ cannot transfer in her family’s vehicle seated in her current wheelchair as the vehicle does not have a lift system. Although the wheelchair’s frame is lightweight and foldable, her mother who is her primary caretaker has difficulty lifting the folded chair into her van. The chair takes extra time to remove the seating and collapse, and often times her mother is unable to supervise ██████████ while she takes the chair apart and fits it in the car. She has resorted to using the old stroller when she needs to transport ██████████ in her vehicle because it can be quickly folded and ██████████ is not left unattended for long periods of time. The stroller that ██████████ currently uses no longer provides a proper, safe fit for her.

Exhibit A, page 11

10. On ██████████, the Department sent Appellant's mother written notice that the prior authorization request for a Convoid Cruiser wheelchair and accessories had been denied. (Exhibit A, pages 6-7).
11. Specifically, that notice provided in part:

The policy this denial is based on is Section 1, 1.5, 1.10, and 2.48 of the Medical Supplier chapter of the Medicaid Provider Manual, which indicates:

- The beneficiary was previously provided with a K0005 ultralight, folding manual wheelchair with custom seating in ██████████. The documentation submitted with that request indicated that the family was able and willing to transport the mobility device in their private vehicle. The documentation submitted does not support the medical needs for the requested stroller style transport mobility device. A second mobility device for beneficiary preference or convenience is not covered.

Exhibit A, pages 6-7

12. On ██████████ the Michigan Administrative Hearing System (MAHS) received the request for hearing filed this matter regarding that denial. (Exhibit A, pages 4-7).

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 statutes, 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 the practitioners and beneficiaries in the Medicaid Provider Manual (MPM). Regarding the specific request in this case, *i.e.* a request for another wheelchair and accessories for a Medicaid beneficiary, the applicable version of the MPM states in part:

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, nurse practitioner (NP) or physician assistant (PA) order nor a certificate of medical necessity by itself provides sufficient documentation of medical necessity, even though it is signed by the treating/ordering physician, NP or PA. 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.

* * *

1.10 NONCOVERED ITEMS

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

* * *

- Second wheelchair for beneficiary preference or convenience

* * *

Pediatric Mobility Devices and Wheelchairs	<p>May be covered if all of the following are met for each type of device. For CSHCS beneficiaries, a medical referral 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 medical referral from an appropriate board-certified pediatric subspecialist for Medicaid beneficiaries.</p> <p>For manual pediatric wheelchairs:</p> <ul style="list-style-type: none">▪ Has a diagnosis/medical condition that indicates a lack of functional ambulatory status with or without an assistive medical device or has a willing and able caregiver to push the chair and the wheelchair is
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	<p>required in a community residential setting.</p> <ul style="list-style-type: none">▪ Is required for long-term use (greater than 10 months).▪ Must accommodate growth and adjustments for seating systems a minimum of 3" in depth and 2" in width.▪ Is designed to be transportable.▪ Is the most economic alternative available to meet the beneficiary's mobility needs. <p>For power wheelchairs:</p> <ul style="list-style-type: none">▪ 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 (this includes the need to rest at intervals).▪ Is able to safely control the wheelchair through doorways and over
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	<p>thresholds up to 1½".</p> <ul style="list-style-type: none">▪ Has a cognitive, functional level that is adequate for power wheelchair mobility.▪ Has visual acuity that permits safe operation of a power mobility device.▪ Must accommodate growth and adjustments for custom-fabricated seating systems a minimum of 3" in depth and 2" in width.▪ For a three-wheeled power mobility device, has sufficient trunk control and balance. <p>For transport mobility medical devices (e.g., strollers):</p> <ul style="list-style-type: none">▪ Is over three years of age or has a medical condition that cannot be accommodated by commercial products.▪ Will be the primary mobility device due to inability to self-propel a manual wheelchair or operate a power wheelchair.▪ Is required as a
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	<p>transport device when the primary wheelchair cannot be designed to be transportable.</p> <ul style="list-style-type: none">▪ Must accommodate growth and adjustments for seating systems a minimum of 3" in depth and 2" in width.▪ Is the most economic alternative available to meet the beneficiary's mobility needs.▪ Is required for use in the community residential setting. <p>For pediatric standing systems with or without wheels:</p> <ul style="list-style-type: none">▪ Is able to utilize the product without being compromised medically or functionally.▪ Has a plan of care that documents how the standing system will be used in the community residential setting.▪ Documentation addresses economic alternatives, including dynamic vs. non-dynamic factors.
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	<ul style="list-style-type: none">▪ Other economic alternatives have been ineffective.▪ Must accommodate growth and adjustments for seating systems a minimum of 3" in depth and 2" in width. <p>For CSHCS beneficiaries, a medical referral 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 medical referral from an appropriate board-certified pediatric subspecialist for Medicaid beneficiaries.</p> <p>For pediatric hi/low chairs:</p> <ul style="list-style-type: none">▪ Positioning cannot be accommodated by use of other mobility devices or commercial products.▪ Is required for independent transfers.▪ All mobility products with interchangeable bases and seating systems have been ruled out as economic alternatives.
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	<ul style="list-style-type: none">▪ Must accommodate growth and adjustments for seating systems a minimum of 3" in depth and 2" in width.
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*MPM, July 1, 2015 version
Medical Supplier Chapter, pages 4, 17-18, 89-90*

Here, the Department sent Appellant written notice that the prior authorization request for a wheelchair and accessories was denied on the basis that, per the above policy, a second mobility device for beneficiary preference or convenience is not covered and Appellant was previously provided with a wheelchair in ██████████ based on information that Appellant's family was able and willing to transport that mobility device in their private vehicle. The Department's witness also testified that the Department would not have approved the previous wheelchair if it could not be used to transport Appellant and that given the previous approval and the information submitted along with this request, it could not approve a second wheelchair.

In response, Appellant's mother testified that the wheelchair Appellant received last year is not transportable as it does not fit in the family's vehicle, and that the family has never even tried to use it. She also testified that she did not know why the occupational and physical therapists would write that it was transportable. Appellant's mother further testified that the new wheelchair they are requesting is very light; it will fit in their vehicle; and that it will be safe for Appellant.

Appellant bears the burden of proving by a preponderance of the evidence that the Department erred in denying the prior authorization request in this case. Moreover, the undersigned Administrative Law Judge is limited to reviewing the Department's decision in light of the information that was available at the time the decision was made.

Given the record and available information in this case, the undersigned Administrative Law Judge finds that Appellant has failed to meet her burden of proof and that the Department's decision must therefore be affirmed. As indicated by the Department's witness, it approved a new wheelchair for Appellant just last year and, at that time, the information provided along with that request from Appellant's occupational and physical therapists expressly provided that Appellant's family had a vehicle to transport the wheelchair in as needed and that Appellant's family was willing to do so. Moreover, while those same therapists, along with Appellant's mother, are now indicating that it is difficult and potentially unsafe for Appellant's family to transport that recently-approved wheelchair, the new request fails to explain the discrepancy in the information provided;

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demonstrate medical necessity for a new wheelchair; or establish that the new wheelchair is not just for convenience or based on Appellant's family's preference.

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 prior authorization request for a wheelchair.

IT IS THEREFORE ORDERED THAT:

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

Steven Kibit

Steven Kibit
Administrative Law Judge
for Nick Lyon, Director
Michigan Department of Health and Human Services

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

SK/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.