

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

P.O. Box 30763, Lansing, MI 48909
(517) 373-0722; Fax: (517) 373-4147

IN THE MATTER OF:

MAHS Docket No. 15-016847 PA

██████████

██████████ ██████████

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 Appellant's request for a hearing.

After due notice, an in-person hearing was held on ██████████ ██████████ Juanita Simmons, Appellant's mother and legal guardian, appeared and testified on Appellant's behalf. ██████████ ██████████ Appellant's father, and ██████████ ██████████ Appellant's supports coordinator, also testified as witnesses for Appellant. ██████████ 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 modification of and custom seating for a wheelchair?¹

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 nineteen year-old Medicaid beneficiary who has been diagnosed with Rhett Syndrome, a seizure disorder, and developmental delays. (Exhibit A, page 49).
2. She is also non-verbal, non-ambulatory, wheelchair-bound, and dependent on caregivers for all activities of daily living. (Exhibit A, page 49).

¹ While a ██████████ denial of a request for a new wheelchair was also discussed during the hearing, any appeal of that denial in this matter is untimely, see 42 CFR 431.221(d), and therefore outside of the undersigned Administrative Law Judge's jurisdiction.

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3. In ██████, the Department approved a request for an Iris tilt-in-space manual wheelchair with custom seating for Appellant. (Exhibit A, pages 9-10; Testimony of Department's Analyst).
4. On or about ████████████████████, the Department received a prior authorization request for a Convoid Rodeo Tilt Stroller and accessories for Appellant. (Exhibit A, pages 13-19).
5. The reason given for the request was that Appellant's family does not have a modified van and her mother is unable to lift the other wheelchair or transport Appellant. (Exhibit A, pages 16-17).
6. On ████████████████████, the request for a stroller was approved, with some amendments. (Exhibit A, page 13).
7. On ████████████████████, the Department received a prior authorization request for a Ki Mobility tilt-in-space manual wheelchair and accessories. (Exhibit A, page 24).
8. In response, on ████████████████████, the Department requested additional information:

- MDCH records show the beneficiary was provided with a Convoid Rodeo stroller in ██████ 1 due to an inability of the family to transport the current Iris tilt in space wheelchair with custom seating in their private vehicle. Please explain if the family is able to transport the newly requested rigid, non-folding wheelchair and custom seating in their private vehicle.
- Please explain if the beneficiary's home is accessible in the requested mobility device.

Exhibit A, page 24

9. On ████████████████████, the Department received an updated prior authorization request for a Ki Mobility tilt-in-space manual wheelchair and accessories. (Exhibit A, pages 22-44).
10. As part of that updated request, a letter of medical necessity indicated that the new wheelchair would be accessible to and used in the home, but that it does not collapse and, with its size and weight, the family cannot transport it and would continue to use to the Rodeo stroller for transportation and use out in the community. (Exhibit A, page 25).

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11. On ██████████ the Department sent Appellant written notice that the request for a Ki Mobility tilt-in-space manual wheelchair and accessories was denied. (Exhibit A, pages 20-21).
12. Regarding the reason for the denial, the notice stated in part that:
 - The coverage of a pediatric manual wheelchair requires that it is designed to be transportable. The documentation submitted indicates the family would not be able to transport the requested manual wheelchair with custom seating in their private vehicle. The requested mobility device does not meet established Medicaid/CSHSCS coverage requirements.
 - Please note, Medicaid/CSHSCS will provide and maintain a single mobility device.
 - The provider is welcome to submit for a mobility device that meets all of the beneficiary's needs for mobility, positioning, and transportation for the approval or the provider may submit for modifications/custom seating to allow the beneficiary's currently owned stroller-style tilt in space wheelchair to be used as the primary mobility device.

Exhibit A, page 21

13. On ██████████, the Department received a prior authorization request for modifications/custom searing for Appellant's Iris tilt-in-space manual wheelchair. (Exhibit A, pages 45-59).
14. In the letter of medical necessity attached to that request, the provider wrote that Appellant has both a manual tilt-in-space wheelchair, received in ██████████ for daily usage but that she has outgrown the seating insert on her manual tilt-in-space wheelchair and is in need of a new custom molded seating system. (Exhibit A, page 49).
15. The letter also noted that Appellant has an older rodeo stroller, secured in ██████████ for transport, but that the rodeo stroller cannot be used for daily usage because it does not allow for appropriate support to capture Appellant's spinal deformities. (Exhibit A, page 49).

16. Regarding other options explored, the letter of medical necessity provided that:

A lesser expensive mobility option, the Convoid Cruiser system in a fixed position, is not designed to allow for changes to upright seating, therefore not appropriate for use with feeding and functional tasks. The Convoid Cruiser also does not provide for trunk support, which [Appellant] requires. Other alternate systems explored were the Quickie 2, Zippie GS and Invacare MVP. These options were unsuccessful because they do not offer the tilt option, a necessary option due to seizures.

Exhibit A, page 50

17. On ██████████, the Department sent Appellant written notice that the request for modification of the patient owned Iris tilt-in-space wheelchair was denied. (Exhibit A, pages 5-6).

18. Regarding the reason for the denial, the notice provided in part:

- The beneficiary was provided with a mobility device in ██████████. The repair of a second (older) manual wheelchair is not covered. Custom seating for a second wheelchair is not covered.
- The provider is welcome to submit for a single mobility device that meets all of the beneficiary's mobility, positioning, and transportation needs for approval.
- Please refer to the Medical Supplier Chapter sections: 1.5-Medical Supplier, 1.10 Non-Covered Items, and 2.48-Wheelchairs, Pediatric Mobility and Positioning Medical Devices and Seating Systems of the Medicaid Provider Manual.

Exhibit A, page 6

19. On ██████████, the Michigan Administrative Hearing System (MAHS) received the request for hearing filed this matter regarding that denial. (Exhibit A, page 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 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 modification of the patient owned Iris tilt-in-space wheelchair, 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.
- 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.

* * *

1.10 NONCOVERED ITEMS

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

- Adaptive equipment (e.g., rocker knife, swivel spoon, etc.)
- Air conditioner
- Air purifier
- Custom seating for secondary and/or transport chairs

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- Second wheelchair for beneficiary preference or convenience

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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 required in a community residential setting.▪ Is required for long-term use (greater than 10 months).▪ Must accommodate growth and adjustments for seating systems a
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	<p>minimum of 3" in depth and 2" in width.</p> <ul style="list-style-type: none">▪ 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 thresholds up to 1½".▪ 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
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	<p>minimum of 3" in depth and 2" in width.</p> <ul style="list-style-type: none">▪ 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 transport device when the primary wheelchair cannot be designed to be transportable.▪ 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.
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	<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.▪ 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>
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	<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.▪ Must accommodate growth and adjustments for seating systems a minimum of 3" in depth and 2" in width.
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<p>Custom-Fabricated Seating Systems</p>	<p>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:</p> <ul style="list-style-type: none">▪ Two or more of the above clinical indications are documented in the medical record and in the mobility assessment, and the severity of the
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	<p>clinical indications cannot be accommodated by a standard seating system.</p> <ul style="list-style-type: none"> ▪ 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. <p>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. MDHHS also reserves the right to require a written order from an appropriate board-certified pediatric subspecialist for Medicaid beneficiaries.</p>
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<p>Rentals, Repairs and Replacement</p>	<p>A wheelchair can be considered a capped rental or a purchase item.</p> <p>Repairs for beneficiary-owned mobility devices are covered only after the manufacturer's warranty has</p>
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	<p>been exhausted. It is the responsibility of the provider to supply loaner equipment while the original item is being serviced. If repair of a wheelchair not purchased by MDHHS is requested, the item must be medically necessary and meet the basic standards of coverage. The repair of a second (older) manual or power wheelchair used as a back-up wheelchair is not covered. Repair of a wheelchair involving the replacement of a component part includes the cost of the part and the labor associated with its removal, replacement, and finishing.</p> <p>Replacement of a mobility device is subject to the manufacturer's warranty and/or cost of repairs. The replacement may also be considered when a significant change in the beneficiary's condition has occurred or the item cannot be restored to a serviceable condition. Replacement of wheelchairs for youth will be evaluated on an individual basis due to the expected growth pattern. Based on these conditions, a wheelchair may be considered for replacement every five years for adults and every two years for children.</p>
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	Medicaid will not authorize coverage of replacement of any DME item or accessory that is requested solely because new technology is available. Replacement or modifications must be medically necessary and required as a result of a change in the medical condition that makes the covered service unusable or contraindicated.
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*MPM, July 1, 2015 version
Medical Supplier Chapter, pages 4-5, 17-18, 89-91, 94-95*

Here, the Department sent Appellant written notice that the prior authorization request for modification of and custom seating for the patient owned Iris tilt-in-space wheelchair was denied on the basis that, per the above policy, repair of or custom seating for a second, older manual wheelchair is not covered and Appellant was previously provided with a mobility device in [REDACTED]. The Department's witness also testified that transport mobility medical devices, such as strollers, are approved as primary mobility devices and that the Iris tilt-in-space wheelchair is therefore considered a second wheelchair, though he did acknowledge that the stroller approved in this case in [REDACTED] appeared to be due to the inability of the family to transport the Iris tilt-in-space wheelchair with custom seating in their private vehicle.

Both the notice and the Department's witness also indicated that Appellant's provider was welcome to submit for a single mobility device that meets all of the beneficiary's mobility, positioning, and transportation needs for approval. In particular, the Department's witness reiterated that, per policy, the Department wants to approve a single wheelchair that can meet a beneficiary's needs, but that the request in this case was to modify an older wheelchair that cannot be transported or used out in the community. The Department's witness further indicated that there are collapsible/foldable wheelchairs with tilt-in-space that may be able to meet all of Appellant's daily needs and be transportable, but that the documentation submitted does not reflect that such chairs were considered or ruled out. Instead, only chairs without tilt-in-space were specifically ruled out. According to the Department's witness, any future prior authorization request should either request a single wheelchair that can meet all of her needs or document additional wheelchairs that were ruled out.

In response, Appellant's witnesses testified regarding Appellant's physical disabilities, her needs, and the changes that have occurred over the years that necessitate a new chair or new custom seating. They also expressed their frustration with process of

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requesting a new chair or modifications, and asked about getting feedback from the Department regarding exactly what needs to be considered and ruled out when making a request.

The Department's witness further testified that the he cannot suggest or identify any specific brands that Appellant should consider, as the Department cannot do that, but that the notices sent in this case identify the Department's position and Appellant can call the Department and get additional feedback if she wishes. He also reiterated that, in general, foldable/collapsible wheelchairs with tilt-in-space and that can accommodate custom seating and that should be transportable exist, and that Appellant's prior authorization request needs to either request a single chair that can meet all her needs or identify why such chairs were ruled out.

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, while Appellant seeks modification/custom seating of a wheelchair she received in ██████, she was subsequently approved for a transport mobility medical devices/stroller in ██████ and such a device/stroller is considered the primary mobility device under the applicable policy. Consequently, Appellant's ██████ wheelchair is considered a secondary chair and, per policy, custom seating for secondary wheelchair is not covered and Appellant's request was properly denied.

While not at issue in this matter, the parties did discuss a new wheelchair for Appellant and the Department's witness elaborated on a previous denial of a request for a new wheelchair and the Department's position that Appellant and her provider should submit a request for a single mobility device that meets all of the beneficiary's mobility, positioning and transportation needs, as opposed to a request for a new wheelchair that cannot be transported or a request for modification of an old wheelchair that cannot be transported. He also testified that, if no such single wheelchair exists, Appellant's provider must document the types of wheelchairs that were considered and ruled out. Appellant's representative indicated in response that they would be submitting a new prior authorization request.

To the extent Appellant wishes to submit a new prior authorization request, she is free to do so and, if the request is subsequently denied, she can always request an administrative hearing with respect to that denial. With respect to the decision at issue in this case however, *i.e.* the denial of modification of the patient owned Iris tilt-in-space wheelchair, the Department's decision must be affirmed.

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 modification of 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]
[REDACTED]
[REDACTED]
[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.