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

**IN THE MATTER OF:**

[redacted]

Docket No. 15-020196-CMH
Case No. [redacted]

Appellant
_____/

## 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 a hearing.

After due notice, a hearing was held on [redacted], Appellant's mother appeared and testified on Appellant's behalf. [redacted], Clinical Director appeared on behalf of Respondent, Centra Wellness Network, formerly Manistee-Benzie CMH. (Centra or Department). [redacted], Children's Services Supervisor, appeared as a witness for the Department.

## ISSUE

Did the Department properly deny Appellant's request for a Beds by George Safety Bed #S1200?

## 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]-year-old Medicaid beneficiary, born [redacted], who is diagnosed with Autism, VSD (ventricular septal defect), and Down syndrome. (Exhibits E, F; Testimony).

2. On [redacted], the Michigan Department of Community Health (now the Michigan Department of Health and Human Services) issued a letter to Appellant and his medical equipment supplier informing Appellant that his request for a Beds by George Safety Bed #S1200 had to be processed through the local Pre-paid Inpatient Health Plan (PIHP), in this case Centra Wellness Network. (Exhibit A; Testimony).

3. Appellant's request for a Beds by George Safety Bed #S1200 was then reviewed by Centra Wellness Network and denied because the bed was not covered for Appellant's diagnoses and because the bed was considered to be a form of restraint, contrary to Medicaid policy. (Exhibits B, C; Testimony).

4. On [redacted], Centra sent Appellant an Adequate Action Notice informing him that his request for a Beds by George Safety Bed #S1200 was denied. The Notice contained Appellant's right to a Medicaid fair hearing. (Exhibit D, Testimony).

5. On [redacted], the Michigan Administrative Hearing System received Appellant's hearing request. (Exhibit 1).

## 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 Medical Supplier chapter of the Medicaid Provider Manual provides coverage limits for medical supplies. This section states in part:

> **SECTION 1 – PROGRAM OVERVIEW**
>
> This chapter applies to Medical Suppliers/Durable Medical Equipment and Orthotists/Prosthetists.
>
> * * *
>
> **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.
>
> * * *

## 1.5 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.

Medicaid will not authorize coverage of items because the item(s) is the most recent advancement in technology when the beneficiary's current equipment can meet the beneficiary's basic medical/functional needs.

* * *

**1.10 NONCOVERED ITEMS**

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

* * *

- Items used solely for the purpose of restraining the beneficiary for behavioral or other reasons

* * *

**2.12 ENCLOSED BED SYSTEMS**

**Definition**

An Enclosed Bed System includes the mattress, bed frame, and enclosure as one unit.

**Standards of Coverage**

An Enclosed Bed System may be covered if the following applies:

- There is a diagnosis/medical condition (e.g., seizure activity) which could result in injury in a standard bed, crib, or hospital bed; and

- There are no economic alternatives to adequately meet the beneficiary's needs.

**Documentation**

The documentation must be less than six months old and include:

- Diagnosis/medical condition requiring use of the bed and any special features (if applicable).
- Safety issues resulting from the medical condition and related to the need for an Enclosed Bed System.
- Other products or safety methods already tried without success (e.g., bumper pads/rails).
- Type of bed requested.
- Type of special features requested, if applicable.

**Noncovered Conditions**

Enclosed Bed Systems are not covered when the purpose is to restrain the beneficiary due to behavioral conditions, caregiver need or convenience, etc.

**PA Requirements**

PA is required for all Enclosed Bed Systems.

**Payment Rules**

The Enclosed Bed System is considered a **purchase only** item.

For Youth Beds, refer to the Hospital Beds subsection of this chapter.

*Medicaid Provider Manual*
*Medical Supplier Chapter*
*July 1, 2015, pp 1, 4-5, 17-18, 35*

In the present case, the Department determined that the requested Beds by George Safety Bed #S1200 was not covered under Medicaid policy. Centra's witnesses testified that upon review Appellant's request was denied because the request did not meet standards of coverage for an enclosed bed at that time because the bed was considered to be a form of restraint, contrary to Medicaid policy.

Appellant's mother testified that Appellant is a [redacted] year old boy with Down Syndrome and severe Autism. Appellant's mother indicated that Appellant is very small for his age and demonstrates self-injurious behaviors. Appellant's mother testified that Appellant is currently on medication, but that they are still trying to find the right medication.

Appellant's mother testified that at night Appellant is able to get out of bed and can get into dangerous situations. Appellant's mother indicated that they do use gates and safety handles on doors to try to contain Appellant, but that he is able to climb over gates and break the safety handles off door handles. Appellant's mother testified that there is a significant safety issue if Appellant gets out of the bedroom as he could go into the bathroom, run water in the tub and drown, he could get into knives in the kitchen, or simply walk out the front door after breaking the safety handle. Appellant's mother pointed out that Appellant is non-verbal and does not respond to his name, so it would be very dangerous if he were to elope from the home. Appellant's mother testified that they have tried to use alarms on doors, but because there are other children and family members in the home, the alarms do not work because Appellant will continuously set off the alarms thinking it is funny and wake up everyone in the home. Appellant's mother indicated that Appellant's conditions are not going to improve and he will need a bed such as this for the rest of his life. Appellant's mother testified that the family has obtained a prescription from Appellant's doctor for the bed, as well as letters recommending the bed from Appellant's Occupational Therapist (OT), Physical Therapist (PT) and Appellant's school.

Appellant's mother pointed to Respondent's Exhibit H in support of the request, which provides on page 5:

> The use of mechanical devices used as restraint is prohibited except in a state-operated facility or a licensed hospital. This definition excludes:
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> ****
>
> - Protective devices which are defined as devices or physical barriers to prevent the individual from causing serious self-injury associated with documented and frequent incidents of the behavior and which are incorporated in the written individual plan of services through a behavior treatment plan which has been reviewed and approved by the Committee and received special consent from the individual or his/her legal representative.

Appellant's mother also pointed to USC 1396d in support of the request, which requires that services be provided to Medicaid beneficiaries if those services improve the beneficiary's condition or prevent further harm.

This Administrative Law Judge must uphold the Department's denial of Appellant's request. The Medicaid policy in these circumstances is clear and unambiguous. The documentation submitted along with the request must show that the Appellant has a diagnosis/medical condition (e.g., seizure activity) which could result in injury in a standard bed, crib, or hospital bed. Here, Appellant's diagnosis of Down syndrome and autism are not the type of diagnosis where Appellant would be injured "in" a standard bed. Instead, the concern of Appellant's mother is that Appellant could be injured if he

gets "out" of the bed. As such, the request here is for a bed that would restrain Appellant in his bed for the night, for his own safety, and so that others in the home can get a good night's sleep. However, as indicated above, Enclosed Bed Systems are not covered when the purpose is to restrain the beneficiary due to behavioral conditions, caregiver need or convenience.

Based upon the preponderance of the evidence submitted in this case, Appellant has failed to meet his burden of showing that the Department erred when it denied his request for a Beds by George Safety Bed #S1200, based on the medical information submitted with the request. Appellant's parents must be commended on the excellent care that they provide to Appellant. Hopefully, Appellant's mother can continue to work with the Department to find methods to ensure Appellant's safety at night.

## DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly denied Appellant's request for a Beds by George Safety Bed #S1200.

**IT IS THEREFORE ORDERED** that:

The Department's decision is AFFIRMED.

Robert J. Meade
Administrative Law Judge
for Nick Lyon, Director
Michigan Department of Health and Human Services

Date Mailed: [redacted]

RJM/cg

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.