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. 15-018378 PAC

[redacted] [redacted] [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.*, and upon a request for a hearing filed on behalf of the minor Appellant.

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

ISSUE

Did the Department properly deny Appellant's request for a queen-sized SleepSafe bed with a Hi-Lo feature?

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 fifteen year-old Medical beneficiary who has been diagnosed with quadriplegia cerebral palsy and a seizure disorder. (Exhibit A, page 10).

2. On or about [redacted] [redacted] [redacted], the Department received a prior authorization request for a queen-sized SleepSafe bed with a Hi-Lo feature submitted on Appellant's behalf by [redacted]. (Exhibit A, pages 10, 12, 14-23).

3. The provider also submitted supporting documentation along with that request, including a physician order, a Certificate of Medical Necessity,

letters from Appellant's doctors, and a letter from Appellant's occupational therapist. (Exhibit A, pages 14-20).

4. In the physician order, [redacted] ordered a "SleepSafe 2 Bed full electric hi-lo with medium rails, full padding all sides, mattress, casters, IV pole and cut out for tubing." (Exhibit A, page 14).

5. In the Certificate of Medical Necessity, [redacted] identified Appellant's height and weight at [redacted] and [redacted] lbs. respectively, but left blank the section of the form asking him to "Please describe medical necessity for above equipment as it relates to the patient's diagnosis and/or environment". (Exhibit A, page 15).

6. In a letter dated [redacted] also wrote in part that:

> The need for a non-hospital bed has become essential for [Appellant]. It should be electric with multiple positions as it cannot only be in one position. It must be upright at times due to respiratory issues, which will allow her to breathe easier and without difficulty, or she is at risk of possibly developing pneumonia. An air mattress and foam can be attempted to allow extra mobility and to prevent full-blown sacral tear which she already has. A standard hospital bed would not work, as after her discharge from the hospital, she once again developed a sore and we would like for this not to be recurrent. We have reviewed options for [Appellant's] bed, and the following conditions should be met:
>
> 1. Sleep Safe II bed, in medium size
> 2. Hi-Lo foundation
> 3. Queen size air mattress (gel)
> 4. White Solid Color
> 5. IV pole, padding, and medical tubing slot at headboard
>
> *Exhibit A, page 17*

7. In a letter dated [redacted] also wrote in part that:

> [Appellant] is immobile and receives in home nursing care, OT, PT, and speech services.

> We find it medically necessary that [Appellant] have a special needs bed for use in her home. She has sleep apnea that requires the use of a CPAP machine at night. [Appellant] needs a bed that has the ability to raise and lower the head of the bed, to aid in ventilation and to prevent pneumonia. [Appellant] also has a history of pressure ulcers despite turning and repositioning every [redacted] hours by her caregivers. She needs a gel mattress to prevent further complications from pressure ulcers. [Appellant] is currently using a hospital bed with rails. She often slides down in her bed and her limbs become entrapped in the side rails. [Appellant's] family and caregivers have tried multiple alternatives to provide a safe environment for [Appellant]. They have used both twin and full sized regular beds, mattress on the floor, and currently a hospital bed. After reviewing the options for [Appellant's] bed we would like her Sleep Safe II Bed to include the following options:
> Queen Size Air Gel Mattress
> White in color
> Hi/Lo foundation
> IV pole, padded sides
> Headboard Window Option, and Opening in frame for medical tubing
>
> *Exhibit A, page 16*

8. In a letter dated [redacted], Appellant's occupational therapist wrote:

> [Appellant] is a [redacted]-year-old female with spastic quadriparesis cerebral palsy and history of seizures. She is dependent for all mobility as well as unable to independently sit. She requires frequent repositioning secondary to high risk for skin breakdown. She is currently being treated by Bat nursing home care inc. occupational therapy. At the time of the evaluation, [Appellant] was using a standard hospital bed with side rails. This was not functional for [Appellant], as she was is [sic] high risk for skin breakdown as well as

> bumping into side rails. A foam mattress and air mattress have previously been tried. Both of which [Appellant] developed skin breakdown on per parent report. She also was turning in previous bed and getting caught in railings per parent report. The need for a more specialty bed has become essential. She would benefit from a sleep safe bed in medium-size with a queen size air gel mattress.
> The following components are medically necessary
> 1. Sleep safe bed, medium size
> 2. Electric controls to allow for multiple positions as [Appellant] is at risk for aspiration and respiratory problems. Electric controls will allow caregiver to quickly change position in times of reflux or regurgitation.
> 3. Queen size gel mattress to allow for proper positioning and skin protection and reduce risk of skin breakdown secondary to multiple bony prominences.
> 4. IV pole to allow for feeding bags to be hung as [Appellant] has required alternate forms and nutrition at times of illness.
> 5. Padding on all four sides of the bed secondary to seizure precautions.
> 6. Medical tubing slot in headboard to allow for feeding tube as necessary.
>
> *Exhibit A, page 20*

9. In response to the prior authorization request, the Department sent [redacted] a request for additional information. (Exhibit A, page 11).

10. The request for additional information stated in part:

> In order to process this request, the Department needs the following information:
>
> - Document medical necessity for Hi/Lo feature
> - Document medical necessity for a Queen size bed

> - Please indicate the beneficiary's functional/mobility status (i.e. pulling to a stand, head and trunk control, ambulation status, etc.).
> - A description of how parents transfer the beneficiary in and out of bed is requested. Is the beneficiary a pivot to transfer in & out of bed, or a total lift?
> - For specific policy information, please refer to the Medicaid Policy Manual available online at www.michigan.gov/mdch Medical Supplier Chapter, Section 2.12. List Documentation needed.

Exhibit A, page 11

11. On [redacted] subsequently resubmitted the prior authorization request along with an addendum. (Exhibit A, pages 10, 12, 14-23).

12. In the addendum, Appellant's Occupational Therapist wrote in part:

> Queen size bed necessary secondary to [Appellant's] medical complications of seizures and brittle bone disease. [Appellant] is at high risk for fractures. Previously both twin and full size beds with padded rails have been trailed [sic] and during seizures pt has hit and injured self on padded protective railings.
>
> High/low feature is necessary to allow proper body mechanics for caregivers while changing undergarments. This will allow proper raised height for different caregivers to provide ADL care to patient while maintaining proper ergonomic positioning.

Exhibit A, page 12

13. On [redacted] the Department sent written notice to Appellant's representative that the prior authorization request for a queen-sized SleepSafe bed with a Hi-Lo feature had been denied. (Exhibit A, pages 4, 6-7.

14. Regarding the reason for the denial, the notice stated that medical necessity for a queen-sized SleepSafe bed with a Hi-Lo feature had not been substantiated. (Exhibit A, pages 4, 6-7).

15. That same, day, the Department also sent written notice of an amended authorization to Appellant's representative. (Exhibit A, pages 8-9).

16. In that amended authorization, the Department approved a twin sized SleepSafe bed without a HI-Lo feature. (Exhibit A, pages 8-9).

17. On [redacted], the Michigan Administrative Hearing System (MAHS) received the request for hearing filed in this matter on the minor Appellant's behalf. (Exhibit 1, pages 1-2).

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.

Medicaid covered benefits are addressed for the practitioners and beneficiaries in the Medicaid Provider Manual (MPM) and, with respect durable medical equipment and other medical supplies, the applicable version of the MPM states:

> **SECTION 1 – PROGRAM OVERVIEW [CHANGE MADE 7/1/15]**
>
> 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 Michigan Department of Health and Human Services (MDHHS) 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.

Below are common terms used throughout this chapter:

Medical Supplies	Medical supplies are those items that are required for medical management of the beneficiary, are disposable or have a limited life expectancy, and can be used in the beneficiary's home. Examples are: hypodermic syringes/needles, ostomy supplies, and dressings necessary for the medical management of the beneficiary. Medical supplies are items covered that: ▪ Treat a medical condition. ▪ Prevent unnecessary hospitalization or institutionalization. ▪ Support Durable Medical Equipment (DME) used by the beneficiary in the home.
Durable Medical Equipment (DME)	DME are those items that are registered with the Food and Drug Administration (FDA), **(revised 7/1/15)** 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, 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 MDHHS 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 MDHHS 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, NP or PA (for CSHCS beneficiaries, the order must be from the pediatric subspecialist) and clinical documentation from the medical record supports the medical necessity for the request (as described above) and substantiates the practitioner's order.

- The service/device meets the standards of coverage published by MDHHS.

- 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.

MDHHS does not cover the service when Medicare determines that the service is not medically necessary.
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.

* * *

1.5.C. DOCUMENTATION

The Coverage Conditions and Requirements Section of this chapter specifies the documentation requirements for individual service areas. Additional information other than what is required on the prescription may be required. To provide this information, Medicaid accepts a certificate of medical necessity (CMNs will be mandatory for electronic PA), a letter or a copy of applicable medical record. The prescribing physician must sign all documentation and the documentation (if a letter or applicable medical records) must state the beneficiary's name, DOB and ID number (if known) or SSN (if known).

1.5.D. CERTIFICATE OF MEDICAL NECESSITY REQUIREMENTS

A CMN must contain all of the following:

- Beneficiary's name and address;
- Beneficiary's date of birth (DOB);
- Beneficiary ID number (if initiated by the provider) or SSN;
- Prescribing physician's signature, date of signature, telephone number;
- The suppliers' name and address;
- The expected start date of the service (if different from the prescription date);

- A complete description of the item;
- The amount and length of time the item is needed;
- Beneficiary's diagnosis; and
- The medical necessity of the item.

For specifics, refer to the Coverage Conditions and Requirements Section of this chapter.

MDHHS will accept a CMN initiated by a medical supplier, orthotist or prosthetist. However, only the beneficiary identifier fields and the areas detailing the description of the item with applicable HCPCS procedure codes are to be completed by the provider. The physician must complete the CMN by writing the medical reason or necessity for the specific item being requested. A medical supplier, orthotist, or prosthetist may not alter or write the medical reason or necessity for the item requested.

Additional documentation (including the CMN) must be current and within the timeframe stated in the Coverage Conditions and Requirements Section of this chapter, under Documentation for each item.

MPM, July 1, 2015 version
Medical Supplier Chapter, pages 1, 4-5, 7

Moreover, with respect to the specific equipment at issue in this case, the MPM also provides:

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.

MPM, July 1, 2015 version
Medical Supplier Chapter, page 37

Here, the Department approved Appellant's prior authorization request for a Sleepsafe bed, but denied the requests that the bed be queen-sized and that it have a Hi-Lo feature. In support of that decision, the Department's witness generally testified that the medical necessity for the queen-sized bed and the Hi-Lo feature was not substantiated in the submitted documents as the doctors failed to identify the need for the equipment in the initial request and, after the Department requested that the medical provider submit additional information that would identify such a necessity, no doctor signed the addendum that was submitted as required by policy, an addendum which also failed to demonstrate any medical necessity.

With respect to the size of the bed, the Department's witness also testified that, given Appellant's height and weight, Appellant only requires a full bed, as indicated in the physician's order, and does not need more room for positioning given her size. Additionally, the Department's witness testified that, even if Appellant slides in the bed and has seizures, she would not get caught in any railings, like she did in the hospital beds, because the SleepSafe bed has padding built into the walls and no railings.

With respect to the Hi-Lo feature, the Department's witness further testified that the feature is used for raising the whole bed and transferring a client, and that the documentation fails to identify such a need, especially given that Appellant already has a lift. The Department's witness also testified that, to the extent Appellant argues that the Hi-Lo feature is necessary for positioning Appellant or allowing her better access to tubing by raising the head of the bed, Appellant's needs are better and more cost-effectively met through other features, such as an articulating frame or additional holes for tubing in the enclosed bed.

In response, Appellant's guardian testified that, while the doctors did not submit additional information in response to the Department's request, they did draft letters after the denial was made that reiterated and elaborated on the need for both a queen-sized bed and a Hi-Lo feature. In general, she also noted that, even if the equipment is more expensive now, it would be more cost-effective in the long-run to provide it and keep Appellant out of the hospital.

She also testified that Appellant needs the queen-sized bed because of her need for greater room when suffering from seizures; her brittle bones and the problems that they have caused when Appellant would hit or get entangled in the railings on hospital beds; and the fact that Appellant now freezes up in smaller beds to the point where she does not sleep and it is difficult to move her. Appellant's guardian further testified that they

have tried all sorts of beds and that only a queen-sized mattress will work, and that Appellant is only going to get bigger as she ages.

With respect to the Hi-Lo feature, Appellant's guardian testified that the ceiling lift Appellant currently has does not fully meet Appellant's transferring needs as it only goes down so far. She also testified that moving the head of the bed will allow for greater accessibility and make it easier to hook up Appellant's CPAP, oxygen machine, or any other equipment that she may need. Appellant's guardian further noted that the hole in the enclosed bed will not accommodate all of Appellant's tubes.

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

Given the record in this case, the undersigned Administrative Law Judge finds that Appellant has failed to meet that burden of proof and that the MHP's decision must therefore be affirmed. Much of Appellant's guardian's testimony, such as her testimony regarding the need for a queen-sized bed because Appellant freezes up in smaller beds, is not reflected in any of the documentation actually submitted in the prior authorization request.

For example, [redacted] only indicated a need for a "full" bed in the physician's order and left blank the section of the Certificate of Medical Necessity that asked him to describe the medical necessity for the requested equipment as it relates to the Appellant's diagnosis and/or environment. Similarly, in his letter, [redacted] just discussed why a hospital bed would not work and provided no justification for a queen-sized bed or a Hi-Lo feature. [redacted] also failed to submit any response to the Department's request for additional information as part of the amended request.

[redacted] letter likewise fails to offer any justification for a queen-sized bed or HI-Lo feature. While he discusses a need for a bed that has the ability to raise and lower the head of the bed, in order to aid in ventilation and prevent pneumonia, the Department's witness credibly explained why such a need is met through an articulating frame and not a Hi-Lo feature. [redacted] also discussed why Appellant's current use of a hospital bed with rails was unsafe, given that she often slides down in her bed and her limbs become entrapped in the side rails, but that alone does not justify a need for a queen-sized bed as the SleepSafe bed approved by the Department has no rails and the padding is built into the walls. [redacted] also failed to submit any response to the Department's request for additional information as part of the amended request.

While the occupational therapist did submit both a letter as part of the initial request and an addendum as part of the response to the Department's request for additional information, the Department's witness properly noted that the above policy requires that the prescribing physician sign all documentation and that did not occur here with

respect to the addendum. Moreover, the addendum itself still fails to demonstrate medical necessity as it primarily repeats the earlier, unpersuasive assertions regarding Appellant's difficulties with smaller beds with padded rails and need for a Hi-Lo feature in order to allow proper positioning,

To the extent, Appellant's guardian has additional new or updated information to provide to the Department, she can always have another prior authorization request submitted with that information. With respect to the denial at issue in this case however, the MHP's decision must be affirmed given the submitted information and the applicable policies.

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 queen-sized SleepSafe bed with a Hi-Lo feature.

IT IS THEREFORE ORDERED THAT:

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

Steven Kibit
Administrative Law Judge
for Nick Lyon, Director
Michigan Department 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.