

**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. 15-021665 PA
Agency Case No. [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 Appellant's request for a hearing.

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

ISSUE

Did the Department properly deny Appellant's prior authorization request for a power seat elevation system for a new 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 [REDACTED] year-old Medicaid beneficiary, born [REDACTED], who has been diagnosed with Spinal Muscular Atrophy, a form of Muscular Dystrophy. (Exhibit A, pp 12, 16; Testimony).
2. Appellant's condition is a progressive disorder causing generalized weakness and wasting of the muscles in the arms, legs, and upper/lower torso. The condition results in respiratory complications and positioning limitations requiring Appellant to need a power wheelchair. (Exhibit A, p 16; Testimony).

3. On ██████████ the Department received a prior authorization request for a power wheelchair and accessories for Appellant. (Exhibit A, pp 12-30; Testimony).
4. On ██████████ the Department sent Appellant a Notification of Denial indicating that, while the power wheelchair was approved, some of the accessories requested were denied, including the power seat elevation system. The Notice indicated that the power seat elevation system was denied because, "Medical necessity for a seat elevator (E2300) is not substantiated. Per submitted MSA 1656 beneficiary uses a lift for transfers." (Exhibit A, pp 8-9; Testimony).
5. On ██████████ the Department sent Appellant a Notice of Amended Authorization, which again indicated that the request for a power seat elevation system was denied for the same reason stated in the prior Notice. (Exhibit A, pp 33-34; Testimony).
6. On ██████████ the Michigan Administrative Hearing System (MAHS) received Appellant's request for hearing. (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 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 power seat elevation system, the applicable version of the MPM states in part:

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?

* * *

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 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, 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.

* * *

1.10 NONCOVERED ITEMS

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

* * *

- Equipment for social or recreational purposes

* * *

- Lift chairs, reclining chairs, vibrating chairs

* * *

- School Items (e.g., computers, writing aids, book holder, mouse emulator, etc.)

* * *

- Therapy modalities (bolsters, physio-rolls, therapy balls, jett mobile)

* * *

- Wheelchair accessories (e.g., horns, lights, bags, special colors, etc.)

* * *

*Medicaid Provider Manual
Medical Supplier Chapter
July 1, 2015, pp 1, 4-7, 17-19
Emphasis added*

Here, the Department sent Appellant written notice that the prior authorization request for a power seat elevation system was denied on the basis that, per the above policy, the device was not medically necessary.

The Department's witness testified that the power seat elevation system was denied per the above policy which states, "MDHHS does not cover the service when Medicare determines that the service is not medically necessary." Here, the Department's witness indicated that Medicare has determined that the power seat elevation system is not medically necessary, so MDHHS cannot cover the item.

The Department's witness also indicated that the power seat elevation system was denied because the letter of medical necessity accompanying Appellant's request did not support medical necessity because the reasons given for the need of the power seat elevation system were not medical in nature. The Department's witness indicated that the letter indicated that the power seat elevation system would be used by Appellant for transfers, but that Appellant has a mechanical lift in his home for transfers. The Department's witness also indicated that the letter of medical necessity indicated that the power seat elevation system would be used by Appellant to assist with activities

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within the home, such as meal preparation and grooming, but that such activities are not considered medical reasons, they are considered functional reasons. (Exhibit A, pp 16-18). The Department's witness finally indicated that the letter of medical necessity indicated that the power seat elevation system would assist Appellant with his job, but that items for work are not covered per policy and any assistance Appellant needs in the workplace would be up to the employer to provide.

Appellant testified that the request for a power seat elevation system is supported by the above policy because that policy provides that durable medical equipment may be covered if it prevents frequent hospitalization or institutionalization or is life sustaining. Appellant argued that being able to feed himself in the home and care for himself is certainly life sustaining and would prevent hospitalization and institutionalization. Appellant argued that the power seat elevation system is medical in nature because it's an addition to the wheelchair that allows him to better navigate his environment. Appellant indicated that he has had a power seat elevation system on his wheelchair for the past 10 years and it would be very difficult to change.

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.

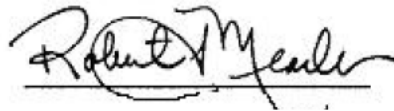
Given the record and available information in this case, the undersigned Administrative Law Judge finds that Appellant has failed to meet his burden of proof and that the Department's decision must therefore be affirmed. As the Department correctly pointed out, it cannot cover an item if Medicare has determined that the device is not medically necessary, which was the case here. The Department also correctly pointed out that the power seat elevation system was not medically necessary for transfers because Appellant already has a mechanical lift in his home for transfers. The Department was also correct that medical necessity cannot be established because the power seat elevation system helps Appellant at work because any accommodations Appellant requires at work are the responsibility of his employer. And while it certainly seems reasonable that the power seat elevation system would assist Appellant with activities around the home, such as meal preparation, the device still cannot be approved if Medicare has determined that it is not medically necessary.

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 power seat elevation system for his power wheelchair.

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.