

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

P.O. Box 30763, Lansing, MI 48909
(800) 648-3997; Fax: (517) 373-4147

IN THE MATTER OF:

██████████,

Appellant

Docket No. 15-023158 PA
Case No. ██████████

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge (ALJ) pursuant to MCL 400.9 and 42 CFR 431.200 *et seq.*, upon Appellant's request for a hearing.

After due notice, a telephone hearing was held on ██████████. Appellant is a minor child. His father ██████████, appeared and testified on Appellant's behalf. ██████████, Appeals Review Officer, and ██████████, Diaper and incontinence supply Manager, represented the Michigan Department of Health and Human Services (the Department or MDHHS or Respondent).

Respondent's Exhibit A pages 1-29 were admitted as evidence.

ISSUE

Did the Department properly deny Appellant's prior authorization (PA) request for pull on style adult diapers?

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 Medicaid beneficiary, date of birth ██████████.
2. Appellant has been diagnosed with autistic spectrum disorder.
3. On ██████████, the Department received a Prior Authorization request from Appellant's physician for pull on – style adult diapers.
4. On ██████████, ██████████, the contractor for the State of Michigan Diaper and incontinence Supply Program, sent Appellant an Advance Negative Action Notice stating that the request for the pull on- adult style diapers would be denied. (State's Exhibit A page 5)

5. On ██████████, the Michigan Administrative Hearing System (MAHS) received Appellant's Request for Hearing. (State's 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 statute, the Social Welfare Act, the Administrative Code, and the State Plan under Title XIX of the Social Security Act Medical Assistance Program.

1.10 PRIOR AUTHORIZATION

Medicaid requires prior authorization (PA) to cover certain services before those services are rendered to the beneficiary. The purpose of PA is to review the medical need for certain services. . . .

Medicaid Provider Manual, (MPM)
Practitioner, April 1, 2014, page 4.

The Medicaid Provider Manual, Medical Supplier Section 2.19, page 49 (October 1, 2015 revised January 1, 2016) states that Diapers, incontinent pants, liners, and belted/unbelted undergarments without sides are covered for individuals age three or older if both of the following applies:

- A medical condition resulting in incontinence and there is no response to a bowel/bladder training program.
- The medical condition being treated results in incontinence, and beneficiary would not benefit from or has failed a bowel/bladder training program.

Pull on briefs are covered for beneficiaries ages three through 20 when there is the presence of a medical condition causing bowel/bladder incontinence, and one of the following applies:

- The beneficiary would not benefit from a bowel/bladder program but has the cognitive ability to independently care for his/her toileting needs,; or
- The beneficiary is actively participating and demonstrating definitive progress in a bowel/bladder program.

Appellant's representative stated that his child needs the pull up underwear so that he can participate in a toilet training program.

The Department representative stated that upon researching the issue it was determined that Appellant is in a toileting program but does not appear to be making progress. Pull ups are considered to be a temporary benefit. Appellant has no medical condition that leads to incontinence. Appellant has used pull-ons for six years.

Administrative Law Judge has limited jurisdiction over Medicaid fair hearings pursuant to a written directive signed by the Department of Health and Human Services (formerly Department of Community Health) Director James K. Haverman, on February 22, 2013. The written directive states:

Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations or overrule or make exceptions to the department policy set out in the program manuals.

This Administrative Law Judge has no equity powers and cannot make a decision in contravention of Department policy. Appellant has not demonstrated definitive progress in a bowel/bladder program and has not been diagnosed with a medical condition resulting in incontinence.

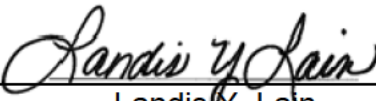
Appellant has failed to satisfy the burden of proving by a preponderance of the evidence that the Department improperly denied the pull on adult style underwear. The Department has established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with Department policy when it determined that Appellant was not eligible for coverage for pull-on briefs. The Department's decision must be upheld.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly denied the Appellant's request for PA for pull-on briefs.

IT IS THEREFORE ORDERED that:

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



Landis Y. Lain

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

LYL/ 

cc: 

Docket No. 15-023158 PA
Decision and Order

Date Mailed: [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.