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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

MIKE ZIMMER
DIRECTOR

[REDACTED]

Date Mailed: March 17, 2016
MAHS Docket No.: 16-000044
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Landis Lain

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]. Petitioner is a minor child and did not appear to testify at the hearing. Petitioner's mother and Legal Guardian [REDACTED] appeared and testified on Petitioner's behalf. [REDACTED], Case Management; [REDACTED], Licensed Practical Nurse/Home Help Services Nurse; and [REDACTED], Registered Nurse/Petitioner's caregiver, also appeared and testified on Petitioner's behalf. [REDACTED], Appeals Review Officer, represented the Department of Health and Human Services (Respondent or the Department). [REDACTED], Medicaid Utilization Analyst, appeared as a witness for the Department.

Respondent's Exhibit A pages 1-51 were admitted as evidence.

ISSUE

Did the Department properly deny the Petitioner's Prior Authorization request for Pride Mobility center mount articulating foot platform, multiplier box harness, attendant control mount, attendant Q-logic mount and attendant control?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. Petitioner is a Medicaid beneficiary, born [REDACTED], who has been diagnosed with Myotubular Myopathy and congenital dislocation of the hip. (Testimony)
2. On or about [REDACTED], the Department received a prior authorization request from the University of Michigan (U of M) Wheelchair

Seating Service for the Petitioner to receive a Pride Mobility Q6 Edge wheelchair and accessories.

3. On [REDACTED], the Department issued a Notice of Amended Authorization approving the wheelchair and several accessories. The Notice also denied a Pride Mobility center mount articulating foot platform, multiplier box harness, attendant control mount, attendant Q-logic mount and attendant control stating: a power wheelchair is provided to allow for independent mobility. The attendant control with multiplier harness and attachment hardware is not considered medically necessary and is not covered by Medicaid/CSHCS. The documentation submitted does not support the medical necessity for the requested power elevating leg rests over economical alternative and non-covered items.
4. On [REDACTED], the Michigan Administrative Hearing System received the hearing request filed on Appellant's behalf stating that the Petitioner needs the adaptive parts to keep him secured in his wheel chair and able to move independently. He cannot move his legs independently so he needs the electric portion added to the chair for position changes. He needs electric positioning including feet for positioning during transportation. (Respondent'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.

The Medicaid Provider Manual provides, in pertinent part, as follows:

SECTION 1 – PROGRAM OVERVIEW

This chapter applies to Medical Suppliers/Durable Medical Equipment and Orthotics/Prosthetics.

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 MDCH 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.

* * *

1.3 PLACE OF SERVICE

Medicaid covers medical supplies, durable medical equipment (DME), orthotics, and prosthetics for use in the beneficiary's place of residence except for skilled nursing or nursing facilities.

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.

* * *

MDCH Medicaid Provider Manual,
Medical Supplier Section
January 1, 2016

2.48 WHEELCHAIRS, PEDIATRIC MOBILITY AND POSITIONING MEDICAL DEVICES, AND SEATING SYSTEMS

2.48.A. DEFINITIONS

Wheelchair A wheelchair has special construction consisting of a frame and wheels with many different options and includes, but is not limited to, standard, light-weight, high strength, powered, etc.

Pediatric Mobility Product

Pediatric mobility products are pediatric-sized mobility and positioning medical devices (as defined by PDAC) that have a special light-weight

construction consisting of a frame and wheels/base with many different options. Pediatric mobility devices include pediatric wheelchairs, transport chairs, hi/low chairs with outdoor/indoor bases, and standing systems designed specifically for children with special needs. These products must meet the definition of Durable Medical Equipment (DME) (refer to the Program Overview section of this chapter) and are not available as a commercial product or for which a commercial product can be used as an economic alternative.

Power Wheelchair or Power-Operated Vehicle (POV) in Both Community Residential and Institutional - Residential Settings

May be covered if the beneficiary meets **all** of the following:

- 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 with or without rest intervals.
- Requires use of a wheelchair for at least four hours throughout the day.
- Is able to safely operate, control and maneuver the wheelchair in their environmental setting, including through doorways and over thresholds up to 1½", as appropriate.
- Has a cognitive, functional level that permits safe operation of a power mobility device with or without training.
- Has visual acuity that permits safe operation of a power mobility device.
- For a three-wheeled power mobility device, has sufficient trunk control and balance.

Pediatric Mobility Devices and Wheelchairs

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.

MDHHS also reserves the right to require a medical referral from an appropriate board certified pediatric subspecialist for Medicaid beneficiaries.

For power wheelchairs:

- 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 minimum of 3" in depth and 2" in width.
- For a three-wheeled power mobility device, has sufficient trunk control and balance.

Wheelchair Accessories

Reimbursement may be made for separate wheelchair accessories that have designated HCPCS codes. Separate reimbursement may be considered for specific wheelchair accessory codes when provided in conjunction with the purchase of a manual wheelchair, power wheelchair, or an addition to an existing wheelchair if:

- It is required to provide safety.
- It is required for appropriate positioning.
- It is the most economical alternative.

Medicaid Provider Manual (MPM)

Medical Supplier, January 1, 2016 Pages 94-97

Section 2.48C states in pertinent part:

The Medicaid Utilization Analyst (Program Review Division) is the authorized Medicaid representative who determines if the service requested falls within the standards of coverage. A prior authorization request may be returned or denied if the documentation is incomplete and not specific to the beneficiary and device requested.

MDHHS reserves the right to request additional documentation to determine medical necessity. For CSHCS beneficiaries, a medical referral 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 medical referral from an appropriate board-certified pediatric subspecialist for Medicaid beneficiaries.

For beneficiaries in the community residential setting, the decision notice is sent to the Medical supplier with a copy to the beneficiary.

For beneficiaries in the institutional residential setting, the decision notice is sent to the

Institutional residence with a copy to the beneficiary.
Prior authorization is required for:

- Power wheelchairs, power-operated vehicles, seating, and accessories.
- New and replacement custom-fabricated seating systems, and the addition of functions for tilt-in-space and/or recline (power or manual).
- Diagnosis/medical conditions that are not listed as approved to bypass prior authorization for pediatric mobility items.
- Replacement of standard wheelchairs beyond established timeframes.

Petitioner's witnesses stated that Petitioner's chair and accessories weigh about 400 pounds and are very difficult to maneuver. The wheel chair can be pushed but it is hard for Petitioner's mother to push the wheelchair if it is not working properly. It takes 3-4 people to move Petitioner from the school bus when the electric wheelchair does not work properly. Petitioner needs the safety harness so he can recline for comfort. He needs to be able to recline the chair because he has a very bad hip.

In the present case, the Department determined that the prior authorization request should be denied because is not medically necessary. A power wheelchair is provided to allow for independent mobility. Petitioner can only move his fingers some. He can move his head a bit. He is ventilator dependent and requires repositioning.

The Department determined further that the attendant control with multiplier harness and attachment hardware is not considered medically necessary and is not covered by Medicaid/CSHCS. The documentation submitted does not support the medical necessity for the requested power elevating leg rests over economical alternative manual leg rests. The department may only approve equipment for the home but not outside the home. The department may only approve requests based upon submitted information.

The Department representative testified that Petitioner is on a ventilator and requires a caregiver to be with him at all times. Manual leg rests can be elevated by a caregiver. There was no substantiation by the medical doctor as to why manual leg rests were not appropriate. For the attendant control, the attendant can push the controls. There was no documentation presented to the Department to show why the control was needed and why the attendant could not push the wheelchair.

The Department appropriately determined that medical necessity for the Pride Mobility center mount articulating foot platform, multiplier box harness, attendant control mount, attendant Q-logic mount and attendant control stating: a power wheelchair is provided to allow for independent mobility. The attendant control with multiplier harness and attachment hardware is not considered medically necessary and is not covered by Medicaid/CSHCS. The documentation submitted does not support the medical

necessity for the requested power elevating leg rests over economical alternative and non-covered items was not established by this documentation.

In addition, the Medicaid Provider Manual Section 1.10, page 17 indicates that adaptive equipment and equipment for social or recreational purposes are not items covered by Medicaid. Exercise equipment, lift chairs, reclining chairs and therapy modalities as well as wheelchair accessories like horns, lights, bags and special colors are not items covered by Medicaid, pages 18-19.

The Department properly denied the request for the Pride Mobility center mount articulating foot platform, multiplier box harness, attendant control mount, and attendant Q-Logic mount (A9999) and Attendant Control (E2331). Petitioner should have his treating physician submit documentation for one or the other and the Department would approve the request. The provider is welcome to submit for manual elevating leg rests for approval or with additional documentation addressing the medical need for power elevating leg rests specific to the beneficiary's medical conditions for consideration.

Based on the documentation submitted, Petitioner did not meet the Medicaid standards of coverage and documentation requirements to establish medical necessity for the denied items. 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 denied Petitioner's Prior Authorization request for Pride Mobility center mount articulating foot platform, multiplier box harness, attendant control mount, attendant Q-logic mount and attendant control. The Department's decision must be upheld.

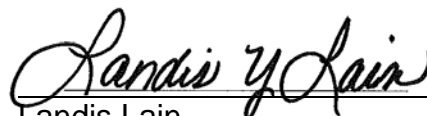
DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly denied the Petitioner's request for the requested wheelchair accessories based on the submitted documentation.

IT IS THEREFORE ORDERED that:

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

LL/sb



Landis Lain

Administrative Law Judge

for Nick Lyon, Director

Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30763
Lansing, Michigan 48909-8139

DHHS Department Rep.

[REDACTED]

Petitioner

[REDACTED]

DHHS -Dept Contact

[REDACTED]

Agency Representative

[REDACTED]