



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: May 24, 2016
MAHS Docket No.: 16-004276
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Corey Arendt

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 the Petitioner's request for a hearing.

After due notice, a hearing was held on [REDACTED]. [REDACTED], Petitioner's father, appeared on the Petitioner's behalf. [REDACTED], Petitioner's foster mother, appeared as a witness for the Petitioner. [REDACTED], Appeals Review Officer, appeared on behalf of the Department of Health and Human Services (Department). [REDACTED], Manager, appeared as a witness for the Department.

Exhibits:

Petitioner	None
Department	1 – Hearing Summary

ISSUE

Did the Department properly deny Petitioner's request for prior authorization?

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 who has been diagnosed with severe autism and developmental delay. (Exhibit A, p. 8; Testimony.)
2. From [REDACTED] through [REDACTED], the Petitioner had been approved for pull-on briefs with a daily allocation of between 3 and 5 pull-ons. (Exhibit A, pp. 6, 9; Testimony.)
3. As of [REDACTED], the Petitioner was not urinating or having bowel

movements in the toilet. (Exhibit A, pp. 7, 9; Testimony.)

4. Petitioner has a fear of the toilet and has never had success at home with urine or bowels into the toilet. (Exhibit a, pp. 6, 9, 10; Testimony.)
5. The Petitioner has been working on toilet training for years. (Exhibit A, p. 13; Testimony.)
6. On or prior to [REDACTED], the Department received a request for pull-on briefs. (Exhibit A, p. 5; Testimony.)
7. On [REDACTED], the Department sent the Petitioner an Advance Negative Action notice. The notice indicated the request for pull-on briefs was being denied. (Exhibit A, p. 5; Testimony.)
8. On [REDACTED], the Michigan Administrative Hearings System (MAHS) received from the Petitioner a request for hearing regarding the [REDACTED] [REDACTED] Advance Negative Action notice. (Exhibit A, p. 4.)

CONCLUSIONS OF LAW

The Medical Assistance Program (MA) 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.

1.7 PRIOR AUTHORIZATION

Prior authorization (PA) is required for certain items before the item is provided to the beneficiary or, in the case of custom-fabricated DME or prosthetic/orthotic appliances, before the item is ordered. To determine if a specific service requires PA, refer to the Coverage Conditions and Requirements Section of this chapter and the Medicaid Code and Rate Reference tool.

*MDHHS Medicaid Provider Manual, Medical Supplier
Section 1.7, (April 1, 2016, p 8).*

2.19 INCONTINENT SUPPLIES

<p>Definition</p>	<p>Incontinent supplies are items used to assist individuals with the inability to control excretory functions. The type of coverage for incontinent supplies may be dependent on the success or failure of a bowel/bladder training program. A bowel/bladder training program is defined as instruction offered to the beneficiary to facilitate:</p> <ul style="list-style-type: none"> • Independent care of bodily functions through proper toilet training. • Appropriate self-catheter care to decrease risk of urinary infections and/or avoid bladder distention. • Proper techniques related to routine bowel evacuation.
<p>Standards of Coverage (Not Applicable to CSHCS Only Beneficiaries)</p>	<p>Diapers, incontinent pants, liners, and belted/unbelted undergarments without sides are covered for individuals age three or older if both of the following applies:</p> <ul style="list-style-type: none"> • 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. <p>Pull-on briefs are covered for beneficiaries ages 3 through 20 when there is the presence of a medical condition causing bowel/bladder incontinence, and one of the following applies:</p> <ul style="list-style-type: none"> • 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.
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*MDHHS Medicaid Provider Manual, Medical Supplier
Section 1.7, (April 1, 2016, p 49).*

The Department argued the Petitioner did not meet the prior approval criteria for pull-on briefs as the Petitioner lacks the cognitive ability to independently care for his toileting needs and has not actively demonstrated **definitive** progress in a bowel/bladder program.

The Petitioner argued that there has been progress in that the Petitioner now removes his own pants and diaper and that by changing from pull-up briefs back to diapers would be a regression in the Petitioner's progress.

The Department indicated that since [REDACTED] when pull-on briefs were first provided, there had been little to no improvement and the Petitioner is yet to have a urine or bowel movement into the toilet.

The Petitioner has the burden of proof in this matter and has not provided evidence to establish that the Petitioner has the cognitive ability to independently care for his/toileting needs or that that the Petitioner is demonstrating definitive progress in a bowel/bladder program. As such, I find evidence to affirm the Department's actions in this matter.

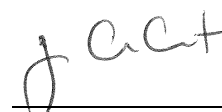
DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, decides that the Department properly denied the Petitioner's prior approval request.

IT IS, THEREFORE, ORDERED that:

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

CA [REDACTED]



Corey Arendt
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

Petitioner

[REDACTED]

DHHS Department Rep.

[REDACTED]

DHHS -Dept Contact

[REDACTED]

Agency Representative

[REDACTED]

Authorized Hearing Rep.

[REDACTED]