



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED] MI [REDACTED]

Date Mailed: March 23, 2023
MOAHR Docket No.: 23-000887
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 March 21, 2023. [REDACTED] Petitioner's Mother and Legal Guardian, appeared on behalf of Petitioner. Leigha Burghdoff, Appeals Review Officer, appeared on behalf of the Respondent, the Michigan Department of Health and Human Services (Department). Mellody London, Review Analyst, appeared as a witness for the Department.

Exhibits:

Petitioner	None
Department	A – Hearing Summary

ISSUE

Did the Department properly deny Petitioner's request for an enclosed bed?

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 Medicaid beneficiary who is enrolled with the Department. (Exhibit A; Testimony.)
2. Petitioner has been diagnosed with Trisomy 21 along with autism. (Exhibit A; Testimony.)

3. On or around January 26, 2023, Department received from Petitioner, a request for an enclosed bed. The supporting documentation provided the following regarding Petitioner:
 - Petitioner has gross motor sensory seeking behaviors
 - Petitioner exhibits gross sensory behaviors with limited to no ability to re-direct
 - Bed will be used to place Petitioner in an enclosed environment for safety due to **impulsive unregulated behaviors**.¹
4. On February 2, 2023, the Department sent Petitioner a negative action notice. The notice indicated the requested device did not meet necessity criteria and that enclosed bed systems are not covered when the purpose is to restrain the beneficiary due to behavioral conditions, caregiver need or convenience, etc. (Exhibit A; Testimony.)
5. On February 22, 2023, the Michigan Office of Administrative Hearings and Rules received from Petitioner, a request for hearing.

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) and, in part, the applicable version of the MPM states:

1.6 MEDICAL NECESSITY

Medicaid covers medically necessary durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) for beneficiaries of all ages. DMEPOS are covered if they are the least costly alternative that meets the beneficiary's medical/functional need 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

¹ Exhibit A, pp 16-18.

items. Neither a physician, clinical nurse specialist (CNS), 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, CNS 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 safety and effectiveness of the product for age-appropriate treatment has been substantiated by current evidence-based national, state and peer-review medical guidelines.
- The function of the service/device:
 - meets accepted medical standards, practices and 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.

Medicaid does not cover equipment and supplies that are considered investigational, experimental or have unproven medical indications for treatment.

Refer to the Prior Authorization subsection of this chapter for medical need of an item beyond the MDHHS Standards of Coverage.

NOTE: Federal EPSDT regulations require coverage of medically necessary treatment for children under 21 years of age, including medically necessary habilitative services. Refer to the Early and Periodic Screening, Diagnosis and Treatment Chapter for additional information.

The Healthy Michigan Plan (HMP) covers habilitative services for all ages. Refer to the Healthy Michigan Plan Chapter for additional information.

* * *

2.12 ENCLOSED BED SYSTEMS²

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 the 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

² Medicaid Provider Manual, Medical Supplier, January 1, 2022, pp 46-47.

	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.

* * *

In this case, the Department denied Petitioner's request for an enclosed bed after it was determined that Petitioner's need for the bed was primarily focused on restraining the beneficiary due to behavioral conditions.

Petitioner argued the presence of safety issues which necessitated the need for the enclosed bed system.

The records reviewed indicate the need for the bed as being primarily based on a need to restrain the Petitioner due to behavioral conditions. As a result, the enclosed bed system would not be a covered Medicaid device. The Petitioner can always have a new prior authorization request submitted that specifically and clearly addresses the health and safety concerns necessitating the need for the enclosed bed.

Consequently, based upon the information presented, I find the Petitioner has failed to meet his burden of proof and as such, find sufficient evidence to affirm the Department's actions in this case.

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 an enclosed bed.

IT IS, THEREFORE, ORDERED that:

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

CA/pe



Corey Arendt

Administrative Law Judge
for Elizabeth Hertel, 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 Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR 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. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

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

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

Via Electronic Mail:

DHHS Department Contact

Gretchen Backer
400 S. Pine, 6th Floor
Lansing, MI 48909
**MDHHS-PRD-
Hearings@michigan.gov**

Agency Representative

Leigha Burghdoff
P.O. Box 30807
Lansing, MI 48909
Burghdoffl@michigan.gov

DHHS Department Representative

M. Carrier
Department Community Health
MDHHS
Lansing, MI 48909
MDHHS-Appeals@michigan.gov

Via First Class Mail:

Petitioner

[REDACTED]
[REDACTED] MI [REDACTED]

Authorized Hearing Representative

[REDACTED]
[REDACTED] MI [REDACTED]