



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

Date Mailed: April 14, 2023
MOAHR Docket No.: 23-001292
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Robert J. Meade

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 Petitioner's request for a hearing.

After due notice, a telephone hearing was held on April 12, 2023. [REDACTED], Petitioner's father, appeared and testified on Petitioner's behalf. John Lambert, Appeals Review Officer, represented the Respondent Michigan Department of Health and Human Services (MDHHS or Department). Adam Schlaufman, Analyst, testified as a witness for the Department.

During the telephone hearing, the Department offered one evidence packet that was admitted into the record as Exhibit A, pp 1-32. No other proposed exhibits were submitted.

ISSUE

Did the Department properly deny Petitioner's prior authorization request for a Sunrise canopy shade for a 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. Petitioner is a Medicaid beneficiary who has been diagnosed with quadriplegia cerebral palsy, seizure disorder, axial hypotonia, with G tube. (Exhibit A, pp 20; Testimony).
2. Petitioner is dependent for all functional mobility, dependent for all ADL's, unable to eat by mouth, dependent for head and trunk control, and demonstrates end range muscle tightness in all joints secondary to his hypertonicity. Petitioner has severe difficulties with temperature regulation and skin sensitivity. (*Id*).

3. On December 20, 2022, the Department received a prior authorization request for an IV hanger and a Sunrise canopy shade for his wheelchair, plus the labor to install the items. (Exhibit A, pp 13-23; Testimony).
4. On January 17, 2023, the Department sent Petitioner written notices that the request for the IV hanger (and labor) was approved but the request for the Sunrise canopy shade was denied. (Exhibit A, pp 8-12; Testimony).
5. With respect to the reason for the denial of the Sunrise canopy shade, the notice stated:
 - The documentation does not support the medical necessity for the canopy. Commercial products are available. Wheelchair accessories (e.g., horns, lights, bags, special colors, etc.) are not covered.
 - Refer to the Medical Supplier chapter sections: 1.6 and 1.11.

(Exhibit A, pp 8, 11).

6. On March 10, 2023, the Michigan Office of Administrative Hearings and Rules (MOAHR) received the request for hearing filed in this matter regarding the Department's decision. (Exhibit A, pp 6-9).

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, with respect to medical supplies, the applicable version of the MPM states in part:

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 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, [sic] 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 [sic] 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.

* * *

1.11 NONCOVERED ITEMS

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

* * *

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

*Medicaid Provider Manual
Medical Supplier Chapter
October 1, 2022, pp 9-10, 25-27
Emphasis added*

Here, as discussed above, Respondent approved Petitioner's request for an IV hanger but denied the request for a Sunrise canopy shade for the wheelchair pursuant to the above policies.

In appealing the denial, Petitioner bears the burden of proving by a preponderance of the evidence that the Department erred in denying his prior authorization request. Moreover, the undersigned Administrative Law Judge is limited to reviewing the Department's decision in light of the information available at the time the decision was made.

Given the record and applicable policy in this case, Petitioner has failed to meet his burden of proof and the Department's decision must be affirmed.

As expressly provided in Section 1.11 of the Medical Supplier Chapter of the MPM, wheelchair accessories are generally noncovered items under Medicaid. The Sunrise canopy shade requested here would be considered a wheelchair accessory and would not be covered by Medicaid.

Moreover, while reimbursement can be made for specific wheelchair accessories with designated HCPCS codes, such as the IV hanger approved here, policy also indicates that, "It is inappropriate to use a nonmedical item." Here, as the Department pointed out, there are nonmedical, commercial products available that can protect Petitioner from the sun while he is outside in his wheelchair. (Exhibit A, p 23). Petitioner did not provide sufficient evidence to demonstrate that those commercial products would not work and that only the Sunrise canopy shade would work. While the Letter of Medical Necessity Petitioner submitted states, "Please note NO piece of equipment at a public store will be appropriate for [REDACTED] given his size and physical status," there is no other support for that statement in the document as it relates to the Sunrise canopy shade.

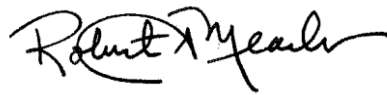
If Petitioner can offer proof that there is no nonmedical, commercial product available that would meet his needs, he can resubmit the prior authorization request with that evidence. However, based on the evidence available to the Department at the time the decision was made, the denial of the Sunrise canopy shade was proper and 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 Petitioner's prior authorization request.

IT IS THEREFORE ORDERED that:

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



RM/sj

Robert J. Meade
Administrative Law Judge

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).

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