



GRETCHEN WHITMER
GOVERNOR

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

MARLON I. BROWN, DPA
DIRECTOR

Date Mailed: February 28, 2024
MOAHR Docket No.: 24-000216
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Steven Kibit

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 hearing.

After due notice, a telephone hearing was held on February 8, 2024. [REDACTED] the [REDACTED] Petitioner's mother, appeared and testified on Petitioner's behalf. Florence Scott-Emuakpor, Appeals Review Officer, represented the Respondent Department of Health and Human Services (DHHS or Department). Mellody London, Review Analyst, and Dr. Eileen Donovan, Medical Consultant, testified as witnesses for the Department.

During the hearing, the Department submitted an evidence packet that was admitted into the record without objection as Exhibit A, pages 1-31. Petitioner did not submit any proposed exhibits.

ISSUE

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

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 [REDACTED] year-old Medicaid beneficiary who has been diagnosed with autism spectrum disorder. (Exhibit A, pages 13).
2. On December 14, 2023, the Department received a prior authorization request for an enclosed bed system submitted on Petitioner's behalf. (Exhibit A, pages 12-25).

3. As part of that request, the medical supplier submitted a letter from a Board-Certified Behavior Analyst stating in part:

[Petitioner] requires constant supervision within the home due to [Petitioner] engaging in elopement behavior. Mom shared recently [Petitioner] was observed removing a chair that was blocking [Petitioner] from eloping out the front door. Once the chair was removed [Petitioner] eloped outside, where it was 40 degrees, in his underwear. Similar behaviors of elopement have been observed within the clinical setting. [Petitioner] also experiences irregular sleep patterns and wakes up at various times throughout the night. When this occurs [Petitioner] will remain awake and engage self stimulatory behaviors. This requested bed will provide a controlled environment that supports healthy behaviors to improve [Petitioner's] sleep hygiene [sic] and safety.

* * *

Currently, [Petitioner] sleeps with his mom due to fears that he will awake during the night and elope out of the house. However, as the family transitions into a new house [Petitioner] will no longer share a bedroom but have his own separate from his parents and twin sister. [Petitioner] requires constant supervision throughout the night by his parents due to elopement and safety concerns. [Petitioner] has previously sustained [sic] injuries to his eye due to waking in the middle of the night and falling as he attempted to navigate through the house in the dark. Within the new home [Petitioner's] bedroom will be located next to his parents and a baby monitor will be utilized to assist mom in hearing [Petitioner] throughout the night.

Exhibit A, page 16

4. The prior authorization also included a prescription for the enclosed bed system, with a comment that Petitioner "needs confinement during sleep time". (Exhibit A, page 21).

5. On December 27, 2023, the Department sent Petitioner written notice that the prior authorization request had been denied. (Exhibit A, pages 10-11).
6. With respect to the reason for the denial, the notice stated:

The policy this denial is based on is Section 2.12 of the Medical Supplier chapter of the Medicaid Provider Manual. Specifically:

- Medicaid supplier chapter section 2.12:
 - 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, page 10

7. On January 16, 2024, the Michigan Office of Administrative Hearings and Rules (MOAHR) received the request for hearing filed in this matter regarding that denial. (Exhibit A, pages 7-11).

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 enclosed bed systems like the one requested in this case, the applicable version of the MPM states:

2.12 ENCLOSED BED SYSTEMS

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 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 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.
PA Requirements	PA is required for all Enclosed Bed Systems.
Payment Rules	The Enclosed Bed System is considered a purchase only item. For Youth Beds, refer to the Hospital Beds subsection of this chapter.

*MPM, October 1, 2023 version
Medical Supplier Chapter, page 48*

Here, as discussed above, the Department denied a prior authorization request for an enclosed bed system pursuant to the above policies and on the basis that enclosed bed systems are not covered when the purpose is to restrain a beneficiary due to behavioral conditions, caregiver need or convenience, etc.

In appealing that decision, Petitioner bears the burden of proving by a preponderance of the evidence that the Department erred in denying the 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 policies in this case, Petitioner has failed to meet that burden of proof and the Department's decision must therefore be affirmed.

The above policies expressly provide that enclosed bed systems are not covered when the purpose is to restrain a beneficiary due to behavioral conditions, caregiver need or convenience, and that appears to be the primary purpose of the request in this case.

As testified by the Department's witnesses, the sole diagnosis identified is autism spectrum disorder, which is a behavioral condition, and both the letter of medical necessity and prescription included along with the request identified the purpose of the enclosed bed system as keeping Petitioner from eloping during the night.

Moreover, while Petitioner's representative disagreed with the characterization of the bed system as restraining Petitioner, she agreed that the purpose of the enclosed bed system was to prevent Petitioner from eloping and to keep Petitioner in his bed during the night; and keeping Petitioner in one place by preventing him from leaving, for whatever reason, is restraining him.

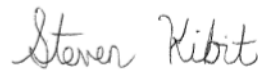
Accordingly, while the undersigned Administrative Law Judge appreciates Petitioner's representative's concerns, the request for an enclosed bed system in this case does not meet the applicable standards of coverage, with policy expressly stating that enclosed bed systems are not covered when the purpose is to restrain a beneficiary due to behavioral conditions, and it was therefore properly denied by the Department.

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**.



Steven Kibit

SK/sj

Administrative Law Judge

NOTICE OF APPEAL: Petitioner 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

PROOF OF SERVICE

I certify that I served a copy of the foregoing document upon all parties, to their last known addresses in the manner specified below, this 28th day of February 2024.

S. James

S. James

**Michigan Office of Administrative
Hearings and Rules**

Via Electronic Mail:

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Via First Class Mail:

Petitioner

[REDACTED]

[REDACTED] MI [REDACTED]