



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA
DIRECTOR



Date Mailed: March 5, 2024
MOAHR Docket No.: 24-001086
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 February 27, 2024. [REDACTED] Petitioner's Mother, appeared on behalf of Petitioner. Kelly Swainson, Cubby Bed Advocate, appeared as a witness for Petitioner. Katie Feher, Senior Manager, appeared on behalf of Respondent, Meridian Health (Department). Dr. Jessie Marshall, Senior Medical Director, 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 system (Cubby Bed Plus)?

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. On November 8, 2022, a letter of medical necessity was issued. The letter indicated the Cubby Bed “would be beneficial for patient's safety during night when caregiver is resting. Helping to reduce triggers and child's ability to harm self, including falling out of bed (especially during convulsions), escaping bed, and destroying room. Providing mom (Caregiver) some sense of security that child is safe and giving her needed peace.” (Exhibit A, p 16.)
3. On July 19, 2023, a letter was written by a treating provider on behalf of Petitioner requesting a Cubby Bed. (Exhibit A.)
4. On November 9, 2023, a written order was issued for the purchase of a Cubby Bed Plus. At the time of the order, Petitioner was diagnosed with epilepsy, autistic disorder, and conversion disorder with seizures or convulsions. (Exhibit A.)
5. On December 2, 2023, Periscope issued a letter following an assessment by an Occupational Therapist. The letter indicated an enclosed bed is medically necessary, but the Cubby Bed Plus was in excess of Petitioner's needs and the health plan should explore other lower-cost options such as a Safety Sleeper. The letter also indicated the technology features of the Cubby Bed Plus could be substituted by units independent of the requested bed such as a video monitor and room lighting. (Exhibit A.)
6. On December 4, 2023, the Department issued Petitioner a Notice of Adverse Benefit Determination. The notice indicated Petitioner's request of a Cubby Bed Plus was denied. The notice indicated the features of the requested bed can be switched with less costly options such as a video monitor and room lighting. The notice further indicated a Safety Sleeper bed should be considered. (Exhibit A.)
7. On January 23, 2024, the Medical Review Institute of America reviewed Petitioner's prior authorization request and determined a Cubby Plus bed was not medically necessary. The letter provided the following:

Noncovered Conditions: Enclosed Bed Systems are not covered when the purpose is to restrain the beneficiary due to behavioral conditions, caregiver need or convenience. Per the most recent appeal letter, the patient is noted to require the bed for restraint purposes to reduce the risk of self-injury. There is also request for the bed to mitigate the risk of elopement. The appeal letter does not state that the bed is requested to mitigate risk of harm during seizure episodes. As such, the bed is considered to be requested for a non-covered condition (restraint due to behavioral

conditions) and is thus considered not medically necessary.
(Exhibit A, pp 90-91.)

8. On February 2, 2024, the Department sent Petitioner a Notice of Internal Appeal Denial. The notice indicated specifically:

We received the request for a special bed for your child to meet his medical needs (Enclosed Bed: Cubby Plus Enclosed Bed). The notes show he has aggressive and self-injuring behavior. He is also noted to have seizures. It is noted he is at risk for falling out of bed during a seizure. The notes also show you have tried many other options to keep your child safe. Per the 2023 Michigan Medicaid Provider Manual – Section: 2.12: Standards of Coverage Enclosed Bed Systems and 2023 Michigan Medicaid Provider Manual-1.6 Medical Necessity, the notes must show:

- This item is the least costly choice that meets your child's medical need.
- Your child has a medical condition which could result in injury in a standard bed, crib, or hospital bed

Also, per the rules, the item is not to be used for restraint purposes, for behavioral conditions, caregiver needs or convenience.

The notes did not show this. Therefore, the request stays denied. (Exhibit A, p 95.)

9. On February 7, 2024, the Michigan Office of Administrative Hearings and Rules, received from Petitioner, a request for hearing. (Exhibit A; Testimony.)
10. The request for hearing indicated Petitioner needed the Cubby Bed Plus for the following reasons:
- Prevents Petitioner from self-injurious behaviors
 - Prevents Petitioner from eloping
 - Prevents Petitioner from becoming entrapped
 - Allows remote monitoring
 - Provides sensory features¹
11. The only difference between a Cubby Bed and a Cubby Bed Plus is the Cubby Bed Plus has monitoring equipment within the canopy. The Cubby

¹ Exhibit A, p 5.

Bed Plus costs approximately \$34,051.50 while the Cubby Bed costs approximately \$9,990. (Testimony.)

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.

On May 30, 1997, the Department received approval from the Health Care Financing Administration, U.S. Department of Health and Human Services, allowing Michigan to restrict Medicaid beneficiaries' choice to obtain medical services only from specified Medicaid Health Plans.

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 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

² Medicaid Provider Manual, Medical Supplier, January 1, 2024, pp 48.

* * *

In this case, the Department denied Petitioner's request for an "enclosed bed" after it was determined that a less costly alternative "Cubby Bed" could meet Petitioner's needs and further that the documentation provided lacked the necessary medical necessity criteria for the additional monitoring equipment to be covered.

Petitioner argued medical needs required a Cubby Bed Plus as the Cubby Bed alone was insufficient to meet Petitioner's needs or keep Petitioner safe. The testimony provided by Petitioner however, failed to show any evidence that the Cubby Bed Plus was medically necessary.

The records reviewed indicate Petitioner's treating providers have requested a "Cubby Bed" and the information regarding a "Cubby Bed Plus" is lacking. Although Petitioner testified to the benefits of the "Cubby Bed Plus", the testimony itself does not show the additional monitoring equipment as medically necessary.

Based upon the information presented, I find the Petitioner has failed to meet her 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:

Petitioner and Authorized Hearing Representative

[REDACTED]
[REDACTED] MI [REDACTED]
[REDACTED]

Community Health Representative

Katie Feher
Meridian Health Plan of Michigan Inc.
Detroit, MI 48244
Katie.feher@centene.com

DHHS Department Contact

MDHHS Managed Care Plan Division
Lansing, MI 48933
MDHHS-MCPD@michigan.gov